

PROCEEDINGS

OF A

General Court Martial,

Vol. I.

1132 f. 2

PROCEEDINGS

OF A

General Court Martial,

HELD IN THE

BARRACKS OF DUBLIN,

FOR THE TRIAL OF

COL. MONTAGUE BURGOYNE,

OF THE LOYAL ESSEX REGIMENT OF FENCIBLE CAVALRY

ON CHARGES

PREFERRED AGAINST HIM BY

MAJOR CROSSE, AND CAPTAINS BUND,
AND GRAHAM

OF THE SAME REGIMENT.

*Published from the Official Copy of the Judge Advocate General
and signed*

FRANCIS PATERSON,
ADVOCATE GENERAL, AND JUDGE MARTIAL.



PRINTED FOR J. MOORE, NO. 45, COLLEGE-GREEN.

1800



To the Reader.

IN preparing this trial for the Press, it has been the anxious desire of the Publishers to give an exact copy of the authentic documents obtained from the office of the Judge Advocate General. This, added to their great distance from the Press, it is hoped will apologize for such errors in the composition as must of necessity occur.

But though they have thus scrupulously adhered to the text of their publication, they have thought it necessary to introduce some few explanatory notes, with a view to correct, as they conceive, some errors of statement. The reader will attach that credit to them, which the evidence they rest on may be deemed to merit.

It may, at first view, appear somewhat singular, that the Prosecutors have taken so little notice of the general and indiscriminate invective hurled not only against themselves, but against almost every evidence adduced on the part of the prosecution. But independent of these charges resting only on assertion, and the knowledge of their being, almost without exception, utterly void of all foundation in fact, it occurred to the Prosecutors, as well as to the Prisoner, that the guilt or innocence of the accused could not be established "by the virtue

"or malice of the accuser; if *facts* were *proved*, it signified little by *whom*"*.

In justice, however, to the characters of Lieutenant Clarke, and Cornets Gregson, and Daniel, whom the Colonel publicly accused of the foulest criminality when brought forward as evidence on his own trial, it may be proper to apprize the Reader that on the Colonel's resuming the command, he put these three Officers in arrest. A General Court Martial was in consequence held upon them, and the Charges, together with the opinions of the Court, and the Lord Lieutenant's decision thereon, are annexed to this publication, [See appendix No. 17.]

There is one other subject, the Publishers feel it necessary to remark on. The reader will see by the sentence of the Court, on the first instance of the 7th Charge, that the settling of Quarter-master Hawkins's account was referred to the arbitration of the Adjutant and Pay-master. That arbitration has since been held, and the decision thereon is, likewise, annexed, [See appendix No. 18.]

They also subjoin a Copy of a memorial to his Excellency the Lord Lieutenant, assigning their reasons for altering the Charges as originally preferred against Colonel Burgoyne, and praying to substitute those on which he was afterwards tried. [See appendix No. 19.]

Lastly there is introduced a statement of feeding on the part of the Prosecution, also a letter from Colonel Brownrigg to Lieutenant Colonel Scudamore, and a paper presented by Captain Graham. All which were read in Court, and permitted to lie on the table, but, it is understood, did not formally accompany the Proceedings.

* Vide Colonel's defence.

Dublin,
21st. April, 1800.

Proceedings, &c.

LIEUTENANT GENERAL EUSTACE,

PRESIDENT.

MEMBERS.

COLONEL BLAKE, Northumb. Fencibles,
LIEUT. COL. DALY, Invalids,
LIEUT. COL. ARABINE, R. I. Artillery,
LIEUT. COL. IRVINE, D. of York's Fen.
CAPT. BAIRD, Angus Fencibles,
CAPT. MONCKTON, 24th Light Dragoons,
CAPT. MC. FARLANE, Angus Fencibles,
COL. MAGINNIS, Invalids,
LT. COL. HUNTER, Angus Fencibles,
LT. COL. LEGG, R. I. Artillery,
MAJOR DEWAR, Mid-Lothian Cavalry,
CAPT. PURDON, 24th Light Dragoons,
CAPT. FERGUSON, Mid-Lothian Cavalry,

JOSEPH ATKINSON, Esq; Advocate General and
Judge Martial. Counsel for the Prosecution,
CHARLES BUSHE, Esq.

THE Court being met and duly sworn, and the Judge Advocate being also sworn, proceeded to the trial of *Colonel Montague Burgoyne* of the Loyal Essex Regiment of Fencible Cavalry, brought prisoner before the Court on the following charges, preferred against him by *Major Crosse*, and *Captains Bund* and *Graham* of said regiment viz.

B

I. CHARGE.

I. CHARGE.

Acting in a manner unbecoming an Officer, and abusing the powers entrusted to him as Colonel of a Regiment, in purchasing horses for the Regiment at a price inferior to that allowed by Government, and charging the full regulated price.

II. Disobedience of Orders in turning out troop horses to Grafs, and feeding the horses of the Regiment in a manner contrary to official Orders, and short of the allowance charged to Government, with a view to his own emolument, and in contempt and defiance of his Majesty's express instructions to him Colonel *Burgoyne*, particularly directed.

III. Taking from the Regiment two troop horses while the Regiment was at Ayre Camp, in the Summer of 1798, for his own private use and purposes, and continuing those horses after he had so acted, upon the strength of the Regiment, in contempt of his Majesty's said instructions.

IV. For embezzling and misapplying money entrusted to him for recruiting for his Majesty's service, and for other regimental purposes, in contempt of his Majesty's said instructions.

V. For ordering that repairing work in the Regiment should be executed by certain non-commissioned Officers and Privates, and by noother persons, contrary to the standing orders of the kingdom, and for knowing of, and allowing such men so employed to hire others to do their duty, in contempt of his Majesty's said instructions.

VI. Arbitrary

VI. Arbitrary and Un-Officer like conduct, towards the Commissioned and Non-Commissioned Officers of his Regiment, and acting towards them in a manner highly injurious, contrary to the custom and spirit of the British Service, and in contempt of his Majesty's particular instructions, in the following instances:

FIRST. In altogether suppressing and contemptuously treating the proceedings of a Court of enquiry (held at Haddington by order of Major Croffe, at his Colonel Burgoyne's request, to investigate the claims of certain persons), to the injury of the claimants whose demands were allowed by the said Court, as appears by their proceedings.

SECONDLY. In suppressing an official communication from his Royal Highness the Duke of York, relative to the Regiment being put on the Irish Establishment.

THIRDLY. In ordering Officers on duty out of their turn by roster, and without route from Government, contrary to the rules of the service, and for making his Soldiers pay for articles with which, according to his Majesty's regulation, they ought never to have been furnished.

FOURTHLY. In confining Quarter-masters for trivial offences in the common guard-room of the Regiment, to the degradation of their rank, and authority, and to the injury of the service.

VII. CHARGE. Scandalous and infamous behaviour, unbecoming the character of an Officer and a Gentleman, in the following instances :

FIRST. In with-holding from Quarter-master Hawkins money due to him.

SECONDLY. In unjustly suspecting and publicly insinuating, that Cornet Gregson had purloined a piece of Buff Leather, from his, Colonel Burgoyne's store, to make a Sword belt ; and that Cornet Daniel had been guilty of a breach of trust in allowing of, and conniving at the same.

THIRDLY. In issuing orders reflecting on certain Officers of his Regiment for having demanded a Court Martial upon him, which Orders tended to insubordination, and to lower those Officers in the opinion of the soldiers ; and for using at different times, offensive and illiberal language to and concerning the Officers of his Regiment, and for making public declarations, unbecoming his rank and situation, and injurious to his Majesty's service.

The Prisoner Colonel *Montague Burgoyne*, being duly arraigned, addressed the Court from a written paper.

MR. PRESIDENT AND GENTLEMEN,

IN this early stage of the business, I wish to address a few words to this Honourable Court.

I am not so much a master in the art of dissembling, as to be able to conceal the uneasy sensations I experience from attracting the public notice a second time, by being called upon to answer for my conduct

conduct before a Military Tribunal. However honourable the decision of a former Court Martial has been to my conduct and character, it is not a pleasant thing to a man of any feeling to find them again impeached. And here, I confess, my enemies have their gratification, the only one I trust that they will enjoy during the trial. But I hope and trust that the proceedings of the Court Martial to which I allude, together with a letter which I received from the Judge Advocate of Scotland upon that subject may be permitted to lie on your table, since witnesses will I understand be brought against me from whom I cannot expect a very favourable evidence; but conscious of the rectitude of my own actions, I derive no favour from them, nor from my prosecutors, nor even (with respect I speak it) from this Honourable Court. All that I expect is strict justice, and a sufficient degree of patience to probe this business to the bottom. After sacrificing my private and domestic comforts, my health, and my private fortune for the defence of the Empire—and being called upon a second time to answer for my conduct, I shall think a mere acquittal very inadequate to what I have a right to expect. I wish every part of my military conduct to be closely scrutinized, to have all my actions and their motives weighed in the scale of justice, and to have it made clear to the world whether I have been a public peculator deserving of punishment, or an active zealous agent.

To enable you to form this judgment, every document and information in my power shall be brought before you: I have not a thought that I wish to conceal, and even circumstances that my accusers will wish to prove, but will not be able to prove, shall be proved by me.—Legal advice I have none.—In a cause like this, I disdain the subtilities of those accustomed to defend a bad cause.

If

If I am not able to wipe away the smallest stain from my character, it is indifferent to me whether I am acquitted or condemned. My accusers are wise to have recourse to the first professional abilities. Let them avail themselves of them, I want them not! Conscious of my own innocence, and thoroughly confident of the justice of the Tribunal before whom I stand, I throw myself on the candour of this Honourable Court, which I doubt not, will rescue an injured and persecuted man from the malice of his enemies. Having troubled you with these remarks, in the presence of God and my Country—I plead—NOT GUILTY.

I. CHARGE.

Quarter-Master Thomas Payne of the Essex Light Dragoons was Sworn.

Examined by the Prosecutor.

Question. Were you with the Regiment when it lay at Kello in Scotland, in the month of October 1797?

Answer. I was.

Q. Were you not sent about that time by the Colonel, or by his orders, from thence to Newcastle fair, to purchase troop horses for the Regiment?

A. I was.

Q. Were you supplied with money for that purpose, and by whom, and to what amount?

A. I was, by an order from the Colonel on the Bank of Newcastle, to the best of my recollection.

Q. Did you in consequence purchase horses at Newcastle. and how many?

A. I did nine.

Q. Was

Q. Was the money you received sufficient for the purchase of those nine horses?

A. It was.

Q. Was it more than sufficient, and how much?

A. It was, but I can't recollect how much was the overplus.

Q. What did you do with the overplus?

A. I settled with the Pay-master for it, when I returned to Hadington.

Q. At what price or prices did you pay for those you purchased.

A. I don't recollect.

Q. What price did you charge for them?

A. I don't recollect.

Q. What was the then regulated price, and did you charge so much?

A. I understood it was 25 guineas, (which the prisoner admits), but I did not purchase them at that rate, nor did I charge more than I gave, which was less than 25 guineas.

Q. Did you charge for them at an average rate, or did you charge for them horse by horse?

A. Horse by horse.

Q. Had you any allowance from the Colonel for the necessary expences of your journey on that occasion?

A. I had.

Q. Did not the Colonel tell you, that what you got the horses for under 20/, you might keep for your expences or for yourself, or words to that effect?

A. Never.

Q. Was the average price of those horses, to the best of your recollection 20/. a horse?

A. To the best of my recollection, I think they must be that at least.

Q. Was their average price as much as 20/.

A. I can't recollect.

Q. Was

Q. Was it 200/. you received from the Colonel?

A. I can't positively say, but I think it was a 200/. draft on the Bank.

Q. Did you return 20/. to the Pay-master?

A. I did return him money after paying all expences, but don't recollect how much.

Cross Examined by Prisoner.

Q. Do you believe the whole expences on those horses amounted nearly, if not quite to 25 guineas a horse, including those charges incurred, after joining the Regiment, that were not charged to Government?

A. I think not.

Q. Have you been paid a bill for medicine for horses, and expences on another occasion?

A. I never was.

Q. Do you not consider me accountable for that bill?

A. I gave you a bill for 25/. for medicine for horses, which I purchased, and you promised me you would see me paid.

Q. Were the nine horses you purchased at Newcastle all fit for the service; or how have they turned out?

A. They were, and turned out to the satisfaction of the Officers, and Captains Graham and Bund acknowledged it by their approbation, and that they never knew a better lot of horses join the Regiment.

Q. Do you know that I paid out of my own fortune a 7th Quarter-master, to avail myself of your assistance in farrying the horses, and buying new ones?

A. There was a person employed as such, and paid as I believe by you, but I can't say what pay you gave him.

Q. Did

Q. Did you ever know me refuse a horse for 25 guineas, that I thought fit for the service?

A. I never did.

Q. Did you ever know me to buy a horse at a low price, that was not fit for the service?

A. Never.

Examined by the Court.

Q. How long has the bill of 25*l.* that you mention been accruing?

A. About two years.

Q. How much of that money due to you is on account of the nine horses that you bought at Newcastle?

A. There is some part, but I can't say how much.

Q. Enumerate to the Court as far as in your power the different extra expences incurred on those nine horses, that made them amount to nearly 25 guineas?

A. The travelling expences of the horses, and my own, and the nicking of the horses after joining the Regiment—but I did not say that the whole expences amounted to near 25 guineas.

Examined by Judge Advocate.

Q. Did you take your own expences out of the 200*l.*, or did you charge them separately to the Col. in any other account?

A. I don't recollect which.

Lieutenant and Pay-Master John Jarvis was Sworn.

Examined by Prosecutor.

Q. Are you Pay-master to the Essex Dragoons, and how long have you been so?

A. I am, and have been so since February 1795.

Q. What

Q. What price to your knowledge has the Colonel uniformly charged to Government for troop horses?

A. Twenty-five guineas.

Q. Do you recollect, or can you learn from your books, what sum Quarter-master Payne handed to you after buying horses for the Regiment at Newcastle fair in 1797?

A. Quarter-master Payne received 200*l.* on that account, and he returned me out of that sum 20*l.*

Q. What did you do with that 20*l.*?

A. I gave the Colonel credit for it.

Q. When Quarter-master Payne paid you that balance, did he furnish you with any account?

A. He did not.

Q. Did Payne mention to you at any time, any average price that he was allowed for the nine horses that he purchased at Newcastle?

A. No.

Q. Was the balance returned you by Payne, a balance after all expences attending the purchase, or was it a balance after the price of the nine horses?

A. He gave me the money, and said it was the remainder out of the 200*l.* he got for the purchase of horses.

Cross-examined by the Court.

Q. If Quarter-master Payne gave in any contingent account for his expences on his journey, to and from Newcastle, must it not have come through your hands, and did you see any?

A. It might have been given to the Colonel, but I never saw any.

Admitted by Colonel Burgoyne, in answer to a question from the Court, that at that time the Essex Regiment was furnished from the Veterinary College

lege with horse medicine, at the rate of three shillings per horse, but Colonel Burgoyne observes, that it was very insufficient for the purpose.

Q. If Quarter-master Payne gave in an account to Colonel Burgoyne for contingent expences on the nine horses purchased two years ago, would not Colonel Burgoyne have long since handed that charge to you to bring it into his private account, if he ever meant to pay such charge?

A. He would not have handed it to me I dare say.

Lieutenant Colonel Scudamore of the Essex Dragoons was Sworn.

Examined by Prosecutor.

Q. Do you recollect six recruit horses joining the Regiment when you commanded in 1798, at Ayre Camp?

A. Yes.

Q. Do you know at what price they were purchased?

A. Not to my own knowledge, but I received a letter from Colonel Burgoyne acquainting me that they cost 24 guineas a horse.

Q. Upon what occasion did you receive that letter from the Colonel?

A. It was in answer to a letter of mine in which I observed to the Colonel, that I thought those six horses were not so good as I expected.

Q. Did you think those horses fit for service?

A. I did not think them sufficiently good horses for the Regiment.

Q. Did you think them worth 24 guineas a horse?

A. Certainly not.

Q. Were

Q. Were these horses continued on the strength of the Regiment after your remonstrance?

A. They were.

Q. What did you think the horses were worth?

A. I wrote to the Colonel that I did not think them worth on an average above 17*l*. a horse.

Q. What did the Colonel reply to your remark?

A. In a letter of his dated 29th July 1798, he says, "if those horses sent to Carlisle are not clever, *Yare* and *Park* are much to blame, for I gave them 24 Guineas, and only limited them to 25," and those horses are the six in question.

Cross-examined by Prisoner.

Q. Had I ever seen those horses, or did I entirely confide in *Yare* and *Park* the dealers?

A. By your letter it seemed as if you confided in the dealers—I know nothing of your having seen the horses.

Q. Had those dealers served the Regiment well before?

A. I don't know what horses were sent by those dealers to the Regiment.

Q. Did you write me word that those horses were not fit for his Majesty's Service, or desired them to be changed?

A. I did not, but wrote you what I have already stated to the Court.

Q. What is your opinion in general of the horses that I have purchased for the Regiment?

A. At the time they were bought (which was when there were many other Regiments of Cavalry raising) in my opinion they were not worth 25 guineas a horse, as prices then went.

Q. Do you think the Regiment well mounted?

A. I think they are as well mounted as other Regiments.

Q. What

Q. Did you hear General Croffe's opinion, who inspected the horses as a General Officer?

A. I did, and heard him say that he had not seen so fine a Regiment?

It being three o'Clock, the Court adjourned till to-morrow morning at Ten.

Tuesday 15th October, the Court met pursuant to adjournment.

Lieutenant Colonel Scudamore was again called.

Examined through Court.

Q. Do you attribute the Regiment's being well mounted at present to the Colonel's having bought in good horses originally, or to the attention of the Officers and Men?

A. In my opinion the horses, are considerably improved since they came to the Regiment by the attention of the Officers and Men.

Q. As an experienced Officer of long standing in the army, do you think Colonel Burgoyne has a right to charge Government for physicking horses, and employing extra Quarter-masters, and Non-commissioned Officers not allowed by Government, as a cover or set off, for charging Government higher prices for horses than he paid?

A. From my experience of 24 years in the service, I do not think he has.

Q. What do you understand in the Order of Government for the purchase of horses by the words, "not exceeding 25 Guineas?"

A. The words of his Majesty's regulation are, "a sum not exceeding 25 guineas, shall be charged for each troop horse bought for the Regiment, without further expence," and my construction of that

that order is, that Government should not be charged more than the horse actually cost.

Cross-examined by the Court.

Q. Did you ever express that opinion to the Colonel?

A. Never as I recollect.

Q. If you had bought a horse at Newry for 14 guineas, would you have charged Government that price, or 25 guineas had you been Colonel?

A. Most assuredly I would have charged the 14 guineas.

Q. Did you ever know less than 25 guineas charged to Government for a troop horse?

A. I never gave in any account myself, nor ever was concerned in the purchase of horses.

Q. Have you heard of the decision of a Colonel Murray's Court-Martial on that subject?

A. I have understood it to be the opinion of that Court, that provided the horses purchased for his Majesty's service were thought sufficient, and passed by a General Officer on inspection, they had no business to enquire what was the real cost.

Q. Do you know when that Court was held?

A. About 2 years ago.

Q. Was it just before the time that Quarter-Master Payne bought some horses at Newcastle?

A. It was as I recollect.

[The General Order of Feb. 13th, 1798, from the Commander in Chief was produced to the Court, from which an extract is taken.—See Appendix, No. 1.]

Captain

*Captain and Adjutant Webster of the Essex Dragoons
was Sworn.*

Examined by Prosecutor.

Q Did you ever since February 1798, sell two troop horses to the Colonel, and at what price?

A. I did; one for 15 guineas, and the other for 20.

Q In what manner were you paid for these horses?

A. By two drafts of 25 guineas each from the Pay-master.

Q By whose order did you apply to the Pay-master for those drafts?

A. I received no particular order for it: it was done between myself and the Pay-master, and I returned 15 guineas to the Pay-master on the transaction.

Q Did you lately, and when, pay the Colonel's servant for a horse at Newry, and what sum did you pay, and by whose orders?

A. I lent the Colonel's servant 14 guineas at the Colonel's request, but I bought no horse from him.

Q Do you know how that 14 guineas was expended?

A. It was I believe for the purchase of a troop horse.

Cross-examined by Prisoner.

Q Did you officially receive as Adjutant to the Regiment the Order of the Commander in Chief of the 13th February 1798, as produced and read in Court?

A. I looked at my book, and can find no trace of it.

Q Did you ever know me to conceal the price of a horse, by paying the full price, and making the deduction afterwards?

A. No, I never did.

Examined

Examined by Court.

Q. Do you know whether the Colonel was ever informed of the money transaction between you and the Pay-master relative to the two horses mentioned in your evidence?

A. He was informed by the Pay-master. I saw it in the Pay-master's book, where he had settled an account with the Colonel, and it is signed by the Colonel.

Q. Did Colonel Burgoyne ever find fault with the manner in which the transaction passed?

A. Yes; he asked why that transaction happened, and that it was not by his orders.

Q. When did the Colonel find fault with the transaction?

A. I think it was since a Court Martial was talked of.

Examined by Prosecutor through Court.

Q. When he found fault with the transaction, did he refuse to accept the credit of the 15 guineas, and order it to be credited to Government?

A. No.

Q. Was it not at Naas Colonel Burgoyne found fault with the transaction, and was not the Court Martial applied for before the Regiment went to Naas?

A. I think it was not since we went to Naas.

Pay-master Jarvis was called.

Examined by Prosecutor.

Q. Do you recollect paying Captain Webster for two troop horses by two bills of 25 guineas each, and by what authority did you so pay him?

A. I recollect paying him that money by one bill dated 6th July 1798, and the other the 30th August following, and I understood from Captain and Adjutant

jutant Webster, that it was by the Colonel's directions that I should pay him.

Q. Did Captain Webster return you 15 guineas out of that money?

A. He did.

Q. How did you dispose of it?

A. I credited it to Colonel Burgoyne's account, by Colonel Burgoyne's directions.

Q. When you first informed Colonel Burgoyne of this transaction, did he express any disapprobation of it, or at the time of settling it in your book with him, did he do so?

A. Not any to my knowledge.

Examined through Court.

Q. Did it appear in the account settled with Colonel Burgoyne, and produced by you to him, that Captain Webster was paid 50 guineas, and that he returned 15, which was placed to the Colonel's private account?

A. The charge of the 50 guineas was in the recruiting account, and the credit of the 15 guineas in my private account with the Colonel:—Which latter account the Evidence produced to the Court, and it appears the said account is signed by Colonel Burgoyne and the witness, dated 1st August 1799, and the signature of the Colonel sworn to by the Evidence.

Cross-examined by Prisoner.

Q. Did I find fault with the transaction of the full price having been paid for those two horses, and the balance returned?

A. I don't remember.

Q. Do you recollect that I found fault with the money being paid and returned, and asking by whose order it was done?

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A. I

A. I recollect the other day at Naas, about 8 or 9 days ago, that you mentioned it, and said you never gave such orders.

Q. Did you ever know the mode practised before, of paying the full price and deducting a part?

A. This was the only instance in which I ever gave drafts for horses, or a credit of the difference to you.

Q. Was I not much pressed for time when I settled accounts with you at Drogheda, and do you think I observed every article in them?

A. You were much pressed for time, but you were shewn the accounts before, and whether you observed items I can't tell.

Q. When I settled accounts with you, did you pay me a balance, or did I pay you one, and what was that balance?

A. There was a balance due me of 530*l.* 3*s.* 1*½d.* on the 1st August 1799, and you paid me in part 500*l.*

Examined by Prosecutor through Court.

Q. Though you might never have drawn bills for horses before, did not the difference between 25 guineas, and the real price of troop horses upon all occasions go to Colonel Burgoyne's credit?

A. Yes.

Examined by Prisoner through Court.

Q. Was Colonel Burgoyne at the Regiment when you paid Captain Webster the 50 guineas?

A. He was not.

Examined by Court.

Q. Since you say on all occasions the difference in all the purchases of horses was placed to the credit of Colonel Burgoyne, what credit did you give him on that account?

A. I know

A. I know of no instances but the transaction of the 9 horses at Newcastle, and the two horses in which Captain Webster is concerned.

Examined by Prosecutor through Court.

Q. Do you mean by your last answer to say, that Colonel Burgoyne had no profit upon troop horses on other occasions?

A. I can't say of any but what passed through my accounts as Pay-master.

Examined by Court.

Q. In what book does it appear what the troop horses really cost?

A. We have no such book as that.

Cornet John Gregson was Sworn.

Examined by Prosecutor.

Q. Were you on the recruiting service in Essex in September 1798.

A. Yes.

Q. Was a dealer of the name of Haydon employed by Colonel Burgoyne to furnish troop horses at that time?

A. Yes.

Q. How many did he furnish?

A. I passed 20 from him.

Q. Were you ordered to go to that dealer for 20 horses, and by whom?

A. Haydon sent word that he had 20 horses ready by the Colonel's orders, and I went to see them with the Colonel's groom.

Q. What payment did Haydon desire you to get for them, and to what amount?

A. 20 Guineas a horse.

Q. By what bills were they paid for?

A. He desired me to get him two bills for 210*l.* each, this was on or about the 1st October 1798.

Q. Who is Sir Montague Burgoyne, and was he to your knowledge in any way concerned in paying for those horses?

A. He is nephew to the Colonel, and I saw a letter from him desiring Cornet Daniel to look at the horses.

Q. Were those horses put upon the strength of the Regiment?

A. They were.

Cross-examined by Prisoner.

Q. Can you say that you bear me no ill-will?

A. I do not, nor never did.

Q. Have I not given you notice of bringing you to a Court Martial?

A. I have received such notice through Captain Webster

Examined by Prosecutor through Court.

Q. Did you receive notice from Colonel Burgoyne of being brought to a Court Martial, before or since the present Court Martial was in contemplation?

A. I received the notice the 13th instant.

Lieutenant Jarvis was called.

Examined by Prosecutor.

Q. Does it appear from any of your books, that payments were made to one Haydon about the 1st October 1798?

A. It appears by my books, there is a draft of Colonel Burgoyne's favour of Haydon, dated 1st October 1798, charged to me by Messrs. Rofs and Ogelvie, as paid on the 24th of that month for 210*l.* British, and I am also charged by them with another bill of the same tenor and date for the like sum, drawn by Sir Montague Burgoyne, making in the whole

whole 240*l.* British, both of which bills I charged in account to Colonel Burgoyne.

Q. Do you know from your Muster-Rolls, or otherwise, how many horses were put upon the strength of the Regiment on the 1st of October 1798?

A. It appears by a recruiting account of Cornet Daniel's, that on the first of October 20 horses were returned as recruited on that day.

Cross-examined by Prisoner.

Q. Do these bills mention the number of horses bought, and the price?

A. No.

Q. What are the next bills charged in favour of Haydon?

A. I am charged on 1st January 1799 with your bill, favour of Haydon for 262*l.* 10*s.* British.

Examined by Court.

Q. Were the 20 horses returned by Cornet Daniel put on the strength of the Regiment, and when?

A. They were.

Q. Were all the horses purchased for the Regiment from 1st October to 24th November charged to Government at the rate of 25 Guineas per horse?

A. They were.

Q. Were any horses returned as recruited, between 25th November 1798, and 1st January last inclusive, and how many?

A. There were nine horses in that interval.

Q. Were any other sums besides the 262*l.* 10*s.* paid by bill or otherwise in the above included period for recruited horses?

A. I believe not.

Examined

Examined by Prisoner through Court.

Q. Do you not know that Colonel Burgoyne has often paid for horses by money or by drafts on his own banker?

A. I don't know.

Q. Do you not recollect Colonel Burgoyne's shewing you a large sum of money paid and charged by his banker in account for military purposes, at the time you and the Colonel made out the clothing account?

A. I do recollect it.

Q. Did you ever know the Colonel to give a draft in favour of Haydon, but for horses?

A. I should suppose not, but I never saw Haydon in my life.

Q. Did Colonel Burgoyne ever tell you at Loughlinstown Camp or elsewhere, that he made a particular sum, and no more, by the augmentation horses?

A. I heard him say that he believed he lost money by it.

Cornet Robert Daniel of the Essex Dragoons was sworn.

Examined by Prosecutor.

Q. Did you receive twenty horses from one Haydon a dealer in Essex, on or about the 1st October 1798?

A. Yes.

Q. Do you know how they were paid for, and how much was paid for them?

A. No.

Q. Do you know whether Sir Montague Burgoyne paid for them?

A. I believe he did, for he wrote to me about them in letters dated 27th and 29th September, 1798, in which he says, when the 20 horses are completed

completed by Haydon, he will see them and settle for them.

Q. Do you know if those horses cost 25 Guineas each?

A. I don't know.

[The evidence in support of the prosecution on the 1st Charge being here closed, the Court proceeded to the 2d Charge.]

II. CHARGE.

Lieutenant Colonel Scudamore was called.

Examined by Prosecutor.

Q. Do you recollect Colonel Burgoyne's applying for leave to turn out horses to grafs about 4th June last?

A. I understood so.

Q. What answer did the Colonel receive to this application?

A. The answer was, that when his Excellency thought proper to allow horses to grafs, a notification or order to that purpose would be sent.

Q. Were horses sent to grafs after he received that answer, and before official notice reached the Regiment?

A. I know horses were sent to grafs, but I am not certain whether it was before or after the answer came, but I rather think it was before.

Q. Were the horses taken from grafs in consequence of that order?

A. I don't know.

Cross-examined by Prisoner.

Q. Do you imagine I had any advantage directly or indirectly in putting those horses to grafs?

A. I should think not.

Q. Do

Q. Do you think that any expence was charged that was not incurred for that purpose?

A. I don't know that there was.

Examined by Court.

Q. Was there a saving to Government by the horses being kept at grafs, and what became of that saving?

A. I dare say there was a saving, and that it was credited to Government: I know nothing to the contrary.

Q. How many horses were sent to grafs?

A. I don't know.

Q. Was the state and condition of those horses, such as to require grafs?

A. I believe the Quarter-Master or Farrier recommended that some of them should be sent there.

Adjutant Webster was called.

Examined by Prosecutor.

Q. Do you know from the weekly states of the Regiment last June, whether horses were kept at grafs after Government had refused permission?

A. On the 9th June last, ten horses were at grafs, the next state is the 16th June, when there were eleven, and the next state is the 23d, and there are none.

Cornet Gregson was called.

Examined by Prosecutor.

Q. Do you recollect any order of Colonel Burgoyne's, as to feeding of troop horses in Essex in August 1798?

A. Yes.

Q. Are they in writing?

A. Yes.

A. Yes.—[The Evidence produces them to the Court.]

Q. What was the feeding order?

A. That 16 horses (these particularly mentioned) should be fed at 3 fourths of a peck per day; the remainder, (and as well as I recollect there were about 40 in all) were to be fed at 1 half peck per day.

Q. What were the Government orders as to feeding horses?

A. Government orders is 8lb. of oats per day for each horse.

Q. Was the feeding ordered by the Colonel, short of Government allowance?

A. It certainly was.

It being 3 o'Clock, the Court adjourned till to-morrow at 10.

Wednesday 16th October, the Court met pursuant to Adjournment.

Cornet Gregson was called.

Examined by Prosecutor.

Q. How did you charge in signing the requisition account for forage, was it according to the quantity ordered by Government, or according to the quantity really given?

A. According to the quantity really given.

Q. To whom did you make such returns?

A. To a man of the name of Weel, who manages Colonel Burgoyne's farm.

Q. Do you know how Colonel Burgoyne charged Government with that feeding?

A. Cornet Daniel made out the account, and I cannot be certain.

Q. By

Q. By whom and from what stores was this forage supplied?

A. I always understood from Colonel Burgoyne's.

Q. Were these horses billeted on the town of Harlow, the recruiting head quarters, or kept at the Colonel's own seat at Markhall in Harlow?

A. I don't recollect that any of them were billeted at Harlow, but they were kept at the Colonel's farm, and at Swain's and Saltmarsh's Barn.

Q. Who are Swain and Saltmarsh?

A. I don't know as to Swain, but Saltmarsh is a labourer to Colonel Burgoyne, if not a tenant.

Q. How far is Markhall from Harlow?

A. It is under half a mile.

Cross-examined by Prisoner.

Q. Did I not tell you that it was my intention to overfeed when the horses work required it?

A. I don't recollect that you did.

Q. Did I not tell you that I had written to the War-Office, concerning feeding the horses according to their work?

A. Not to my knowledge.

Q. Do you not know that I did write?

A. I do not.

Q. What was the price of oats at that time?

A. I can't tell.

Q. What price did you charge?

A. I don't recollect.

[The Evidence on being shewn his account produced by the Colonel, now says it was 3s. 9½d. per bushel.]

Q. Do you know the price Cornet Daniel charged in his account?

A. I do not.

Q. How long did I continue in Essex after I entered in the orderly book, the orders relative to the horses feed?

A. I

A. I can't be certain, but I think about a month.

Q. How long did you continue in Essex after I left it?

A. About a month or five weeks.

Q. Were the horses always fed, as mentioned in the orderly book, viz. 16 at $\frac{1}{4}$ ths of a peck, and the rest at $\frac{1}{2}$ a peck?

A. The orders were complied with as far as lay in my power.

Q. Did you ever mention to any person that the horses required more oats?

A. Never.

Q. What did John Payne say to you about the horses feeding?

A. A few days previous to Lord Heathfield's coming to inspect the horses, he John Payne said to me that he thought it was necessary to give them more hay, for a few days.

Q. Did he not, John Payne my servant tell you that I ordered him to give you any quantity of oats you wished to have?

A. Never.

Q. Did you not know that Weel my bailiff had orders to give you any quantity you wanted?

A. He never told me so, nor did I ever know it.

Examined by Court.

Q. Do you think that the horses at Markhall were so fed, and as well taken care of as they ought to be?

A. As to feeding I can't answer, but as to their being taken care of, it was certainly proper.

Q. Do you think those horses had sufficient oats for the work they did?

A. I do.

Q. Was the allowance of Government ever made good to the horses, by an extra feed?

A. The only extra allowance I know, was a peck a day for each horse on the march.

Q. Was

Q. Was not a peck a day about the allowance?

A. I believe it is something more.

Q. How long did the march last?

A. I believe about 18 days.

Q. Did you ever hear, and from whom, that a greater allowance of water, as well as hay, was ordered for the horses a few days before Lord Heathfield came?

A. I recollect Payne's saying something to that purpose the morning they were to be inspected.

Examined by Prosecutor.

Q. Did you receive any particular orders from Colonel Burgoyne, as to keeping the feeding accounts exact, as he meant to charge Government no more than the horses actually got?

A. The Colonel told me that my requisitions would be shewn to Government, and were vouchers for him, and that he would only charge according to those requisitions only.

Cornet Daniel was called.

Examined by Prosecutor.

Q. Were you recruiting in Essex in August 1798, with Cornet Gregson?

A. I was.

Q. Did you see any orders of Colonel Burgoyne's of the 15th August, respecting the feeding of the troop and recruited horses?

A. I did, I saw orders of the Colonel's that the horses in work were to have $\frac{1}{4}$ ths of a peck of oats a day, and the horses at the straw-yard $\frac{1}{2}$ a peck a day.

Q. How many horses including troop and recruited horses had you under your command at that time?

A. I can't tell, for they were fluctuating every day, upon an average I dare say there were 35.

Q. Did

Q. Did you conceive by those orders that you were feeding under Government allowance of 8lb. of oats a day?

A. Yes.

Q. Did you act as Pay-master to the recruiting party?

A. Yes.

Q. Did you charge Government at the rate of 8lb. of oats per horse, or according to the actual quantity given at feeding?

A. I charged 8lb. per horse, except one horse at grass.

Q. By whose orders did you do so?

A. By Colonel Burgoyne's.

Q. What became of the money arising from the overplus so charged?

A. I don't know.

Cross-examined by Prisoner.

Q. Were my orders for feeding the horses in the manner mentioned given in public or private?

A. In public.

Q. Were not the horses going out continually to recruit at the different towns?

A. They were.

Q. In those cases were not the horses fed in those towns?

A. Yes.

Q. Who made out the horse recruiting account?

A. The Pay-master and me.

Q. Were you satisfied at the time, that considering the different modes in which the horses had been fed, the different places they had been in, and the different prices that had been paid for oats, it was a fair account, and as near to the real expenditure as circumstances would admit?

A. Yes.

Q. Did you make the least objection to it?

A. No

A. No.

Q. Did you give me the smallest hint either at the time, before or since, that you thought there was an overcharge?

A. No.

Q. Have you at any time or place, had any private conversation with me on the subject, that I could not have held in public with honor?

A. No.

Examined by Court.

Q. Did the horses sent recruiting usually return the same day, and were they fed at Colonel Burgoyne's stable and at livery?

A. They were fed both at the towns they went to, and when they returned home.

Q. Do you know John Payne, Colonel Burgoyne's servant?

A. I do.

Q. Did you ever hear him say that the horses ought to get an additional quantity of water on the morning they were inspected by Lord Heathfield?

A. I did not.

Examined by Prosecutor through Court.

Q. Did you receive any particular orders from Colonel Burgoyne as to keeping the feeding accounts exact, as he meant to charge Government no more than the horses actually got?

A. I did not.

Examined by Court.

Q. As the recruiting Officer, were you entitled to any savings that accrued from the service?

A. Yes, on the men recruited; and Colonel Burgoyne was charged with the feeding of the horses at the market towns.

Lieutenant

Lieutenant Jarvis was called.

Examined by Prosecutor.

Q. Do you know of any charge made by Col. Burgoyne to Government, for feeding horses on the recruiting service in Essex, under Cornets Gregson and Daniel in the year 1798, and was the full Government allowance charged?

A. It was.

Q. What price did the Colonel charge Government per bushel for the oats furnished those horses?

A. Three shillings per bushel.

Q. Did Col. Burgoyne sign the requisition accounts sent to Government?

A. He did.

Q. Were the feeding accounts furnished by Cornets Gregson and Daniel up to the Government allowance?

A. They were made up so by Cornet Daniel, but Cornet Gregson gave in no account.

Q. To whose credit did the difference between the actual feeding and the Government allowance go, for those horses?

A. Colonel Burgoyne had credit for the whole account.

Q. Have you an account in your books of feeding by Cornet Sharpe, when he was on the recruiting service?

A. I have.

Q. Is that the original account, or has the account now produced been substituted in the place of another?

A. It is not the original one.

Q. Explain why the original one don't appear, and what is become of it?

[The evidence here produces an order of Col. Burgoyne's to him which is duly vouched, and of which the following is a copy, viz.]

LIEUTENANT

LIEUTENANT JARVIS,

"I charge those prices which is lower than they cost, because I have discovered some of the horses had less oats than I imagined, when they were under Cornets Daniel and Gregson during my absence from Essex.

(Signed)

M. BURGOYNE

31st July 1799.

Colonel."

Examined by Prosecutor.

Q. Was it since Colonel Burgoyne had notice of this Court Martial that you received that order from him?

A. I believe it was.

Q. Did Col. Burgoyne ever tell you till then, that he had made the discovery he mentions in that order?

A. I believe he did two days before it, but that was since the Court Martial was notified.

Q. Was the original account in a book, and had it been cut out?

A. It was cut out of a book.

Q. How long is it since you posted that first account, so cut out?

A. Some time in June last.

Q. Did Colonel Burgoyne sign the first account, before it was cut out?

A. He did not.

Q. In what respect do the two accounts vary from each other?

A. I don't remember for the first was destroyed, except that the price of oats was four shillings per bushel, and the charge was for Government allowance, except one horse at grass, and in the straw yard;—in the 2d account the horses are charged part of the time, 6lb. of oats per day, and part of the time 8lb. price 3s. 6d. per bushel.

Q. From

Q. From what documents did you make up the first account?

A. Colonel Burgoyne gave me the memorandums.

Q. From what document did you make up the second account?

A. From the instructions given by the Colonel, accompanied by the order of the 31st July last.

Q. Since Colonel Burgoyne's Court Martial at Edinburgh, did you ever receive any order from him, by letter or otherwise, to make savings for him?

A. In a letter from Colonel Burgoyne, dated 26th December 1797, there is the following paragraph to me :

“I hope that you will continue to save this winter the 300^l. over-fed at Newcastle, as I am much out of pocket.”

Q. What do you understand by the over-feeding in that letter?

A. I believe there was about that sum over fed while the Regiment lay at Newcastle.

Cross-examined by Prisoner.

Q. Did Cornet Daniel seem perfectly satisfied with the account when he and you made it out?

A. He did.

Q. Did he make any intimation of any error, saving in the forage?

A. He did not at that time.

Q. Did you hear me give any orders to Cornet Daniel about the account except as to the price of oats?

A. I did not, but I believe you furnished the periods.

D

Q. Do

Q. Do you remember when there was a doubt what price per bushel should be charged, I declared in a very strong manner, that I thought I lost by it?

A. Yes.

Q. Did I not say, "I vow to God," or some expression to that purpose?

A. I don't remember the expression, but you said this is a just and fair account, and you declared, you thought you lost by it.

Q. From your opinion of me, do you think I would have said so, if I had not thought so?

A. I think not.

Q. What was the market price of oats at the time that three shillings was charged?

A. I don't know.

Q. Do you remember my saying that the horses had some beans and bran with their oats, and that I wished them to be charged as such when I made out the account of Cornet Sharpe?

A. Yes.

Q. From what you have seen of the account I signed of feeding when Cornet Sharpe recruited, was I a gainer or loser?

A. By that last account you were a loser.

Q. Did I desire you to cut the leaf out, and did I not express some surprise and concern, when I found you had done so?

A. You did not desire me to cut it out, but I told you that I should be obliged to cut the leaf out, in order to make up the fair account with Government, and remember nothing further.

Q. Do you think I wished to have the leaf cut out?

A. I do not believe you did.

Q. Do you not think that I made the memorandum dated 31st July last, to prove that I did not mean

mean to suppress it, and that I meant to record the alteration I had made?

A. I understood it was an authority for me to alter the account as the prices were made upon it.

Examined by the Court.

Q. By the first account made up by you from documents furnished by the Colonel, was he a gainer or a loser?

A. A gainer.

Q. Were the bran and beans charged as such in the original account torn out of your book, and which you made up from documents furnished by Colonel Burgoyne?

A. They were not charged in the accounts.

Q. When you told Colonel Burgoyne, you would be obliged to cut the leaf out, did he forbid your doing so?

A. He did not.

Q. How much did the savings on forage on Cornet Daniel's recruiting account of forage amount to?

A. I can't tell.

Q. Can you tell the date when this Court Martial on Col. Burgoyne was spoken of?

A. Some time about the middle of July last.

Examined by Prisoner through Court.

Q. Why do you think Colonel Burgoyne should have been a gainer by the 1st account?

A. Because I have heard Col. Burgoyne say so.

Cornet Sharpe was Sworn.

Examined by Prosecutor.

Q. Were you on the recruiting service in Essex about December 1798?

A. I was.

Q. Do you know in what manner the horses under your command were fed, and where?

A. The horses were kept at Colonel Burgoyne's House, I know nothing about the feeding.

Q. How do you happen to be ignorant about the feeding?

A. Their feeding were entrusted to a Mr. Payne; a servant of the Colonel's.

Examined by Court.

Q. What number of horses were there?

A. I believe about 16.

Q. Were those horses in such condition as you approved of?

A. They were.

[In closing the 2d charge the Gentlemen concerned in the prosecution, beg leave to lay before the Court a letter from the Adjutant General's Office, dated Edinburgh 18th December 1797, relative to a former Court Martial at which Col. Burgoyne was tried, and which is annexed to the proceedings—See Appendix No. 2.]

The evidence in support of the prosecution on the 2d charge being closed, the Court proceeded to the 3d Charge.

III. CHARGE.

Quartermaster Thomas Payne was called.

Examined by Prosecutor.

Q. Were you ordered by Col. Burgoyne when the Regiment was at camp in the year 1798, to look out for two currie horses amongst the troop horses of the Regiment, and did you fix upon any horses for that purpose, and to what men by name did those two horses which you chose belong?

A. I did.

A. I did choose two horses for that purpose, and one of them belonged to a man of the name of *Aley*, and the other I think was *Ruggle*.

Q. Were those horses after chosen by you sent from the Regiment by order of Col. Burgoyne to his own place in Essex, and there kept and used in his curricule or carriage occasionally?

A. They were sent from Ayre camp by a recruiting party going to Essex, but I don't know to what purpose they were afterwards applied.

Q. Did Col. Burgoyne or any other person by his orders, give the dragoons from whom those horses were taken any money, as a compensation or otherwise for taking their horses from them?

A. I don't know that he did.

Cross-examined by Prisoner

Q. Did I replace two horses?

A. I heard you say that you did, and you pointed to me the two horses you said you had given in exchange.

Q. Quarter-master Payne, you are allowed to be an excellent judge of horses, do you on your oath think I did Government any injury by the exchange?

A. By no means.

Q. Which horses considering make, age, and all other circumstances, should you prefer at Newcastle fair, those I took from the Regiment, or those I gave in lieu of them?

A. I should have the two sent in lieu of them, because they are younger, better, and fitter for service.

Examined by Court.

Q. How long was it after those horses were sent from the Regiment that you knew they were replaced?

A. I don't

A. I don't know when they were replaced, but the first time I saw them was about three months ago, they might have been there before.

Q. Were the horses taken from the Regiment completely broken to the ranks, and was the Regiment that time complete to the establishment?

A. They were completely broken for the ranks but can't say that the Regiment was complete to the establishment.

Thomas Ealy, private, Sworn.

Examined by Prosecutor.

Q. Did you receive any money from Colonel Burgoyne for your troop horse being taken from you at Ayre camp?

A. I did, one guinea.

Cross-examined by Prisoner.

Q. Did I not give you a guinea as a recompence for taking your horse, because it is a rule never to take a man's horse, as long as he behaves well?

A. Yes, you said so on giving me the guinea.

John Edey Sworn.

Examined by Prosecutor.

Q. Did you receive any money from Colonel Burgoyne for your troop horse being taken from you at Ayre camp?

A. I did, one guinea.

Cross-examined by Prisoner.

Q. Did I not give you a guinea as a recompence for taking your horse, because it is a rule never to take a man's horse, as long as he behaves well?

A. Yes

A. Yes.

It being 3 o'Clock, the Court adjourned till to-morrow at 10.

Thursday the 17th October the Court met pursuant to adjournment.

Captain Webster was called.

Examined by Prosecutor.

Q. Do you know of Colonel Burgoyne's taking two horses from the Regt. from Ayre camp?

A. Yes, they were sent from thence by order of the Colonel in June 1798.

Q. Was the Regiment then complete in men and horses?

A. There were six men wanting to complete, no horses wanting, and nine horses returned.

Q. How long after those horses were taken, were they replaced by the Col.?

A. The two horses that replaced them joined the Regiment on the 3d June last.

Q. Was the feeding of the two horses taken away by Colonel Burgoyne's orders charged to Government from the time he took them till he replaced them?

A. I can't say.

Q. Did the Regiment come over to Ireland short of horses?

A. Yes.

Q. State to the Court the return of the 1st September 1798, as to men and horses?

A. Nineteen serjeants, five trumpeters, five men on command, fourteen recruiting, one on furlough, 230 men total—seven sick, and 203 present fit for duty;

duty; wanting to complete seventy men; horses present fit for duty 205, sick 6, on command 18, total 229, wanting to complete 71.

Q. How many orderly attending the sick men?

A. 1 Serjeant always, and 1 private daily.

Q. What was your dismounted establishment the 1st Sept. 1798?

A. Thirty.

Q. Do you know from your monthly returns or otherwise whether the two horses were kept on the strength of the Regiment as troop horses after they were taken away by the Colonel, and until they were replaced?

A. They were kept effective by me on the returns, till the 3d day of last June as troop horses.

Q. Can you say from your returns or otherwise how many men were dismounted on the 1st September 1798, for want of horses, who ought to have been mounted?

A. Twenty-three were dismounted for want of horses.

Q. Was Col. Burgoyne returned absent on leave or on the recruiting service in the monthly returns; from the time those two horses were taken from the Regiment at Ayre in June 1798, until his joining the Regiment at Newry in September 1798.

A. The Col. was returned absent on leave the 21st June 1798, the same on the 1st July 1798; on the 1st August the same; on the 1st September the same, and never returned on the recruiting service in that interval.

Cross-examined by Prisoner.

Q. Did I not give orders to have the two horses replaced immediately after my taking them?

A. I can't charge my memory.

Q. Is this your letter?

A. It is.

Q. Read

Q. Read it to the Court?

(COPY.)

DEAR COL. *Ayre Camp, 24th July, 1798.*

"The statement on the other side is as we mustered this day,—you ordered three of the six horses received at Carlisle to replace Saunders's, Eades's and Ealy's—has given us some trouble to regulate equally again which is now done as per statement."

Ayre, July 24th 1798.

Colonel Burgoyne, Markhall,
Harlow, Essex.

State of the horses of the Essex Light Dragoons,
Ayre, 24th July, 1798.

Troops,	Present.	Recruiting.	In Essex.	On Command.	Wanting to Complete.	Total.
Colonel's	36	2	1	1	10	50
Lt. Colonel's	34	4	2	0	10	50
Major's	36	3	1	0	10	50
Bund's	39	0	1	0	10	50
Graham's	35	3	1	1	10	50
Andre's	35	4	1	0	10	50
Total	215	16	7	2	60	300

Q. Has the Regiment ever been distressed for want of horses?

A. I think not.

Q. Did not the men going to recruit in Essex, ride the two horses which I sent from Ayre camp?

A. Yes.

A. Yes.

Q. Do you think that the Regiment has been injured by the exchange I made of those two horses?

A. No.

Q. I ask you, if you were commissioned to buy troop horses for the Regiment, to which horses would you give the preference, to those I took, or to those I gave in the place of them, taking into consideration their age, make, and all circumstances?

A. I would take the two that are at present with the Regiment.

Q. Do you know that these horses were replaced in December last, though they did not join till last June?

A. I understood the Pay-master made them effective horses in the recruiting account in December last, though by my letter to you, as produced to the Court, I thought they had been replaced at the time I wrote.

Q. If I had orders from his Royal Highness the Commander in Chief to stay in Essex to recruit, how many horses had I right to return as Colonel, and how many did I return?

A. As Colonel I think you had a right to four while recruiting, but I can't say how many you returned.

Q. Do you recollect having ever seen an original letter of which this now shewn you is a copy?

A. I don't recollect to have seen the original, but I think you wrote to me to say you had leave to remain in England to compleat the augmentation.

Examined by the Court.

Q. When the horses from Carlisle mentioned in your letter to Colonel Burgoyne were put on the strength of the Regiment to replace those taken away, were those taken away at Ayre, returned as cast, or did the whole continue on the strength of the regiment?

A. There were none returned cast, but seven returned on the strength of the Regiment.

Q. Under what head were the horses taken by Colonel Burgoyne returned, whether was it on command, recruiting, or present?

A. On command.—Which the Evidence observes in the returns, is included with recruiting.

Q. If those horses were returned on command, how could they be replaced?

A. They were not replaced at the time they were considered as effective horses.

Q. Are the two horses now here which you describe as preferable to those taken away, part of the lot mentioned in your letter?

A. They are not.

Q. Do you know if those horses did any duty on the recruiting service?

A. I don't know.

Q. Has it been a practice in the regiment to allow the Officers to take chargers or other horses from the ranks, and replace them with others?

A. When I first joined the regiment, Colonel Burgoyne allowed me one, but I can't say it was a common practice.

Q. Did Government allow Officers to draw forage for horses used as carriage ones?

A. They were allowed to draw for the number of their effective horses of any kind.

Q. You say the Regiment never was distressed for horses, do you mean to say that at all times, if the Regiment was ordered to be mounted, there were horses sufficient to mount every man that ought to be mounted?

A. I don't mean so, for there were not sufficient.

Q. You have said the men going recruiting rode the two horses taken by Colonel Burgoyne, did you consider therefore these two horses on duty, or do you think their riding them was a convenience to the Colonel as to the men?

A. I

A. I consider them on command,—and it was an equal convenience to the Colonel and the men.

Q. Were those horses ordered on command by the Officer commanding the Regiment?

A. Yes,—by Colonel Burgoyne.

Q. On your return for 21st June to the 1st Sept. you have returned the Colonel absent by leave, and the two horses taken by him you have returned recruiting, how do you reconcile this statement?

A. The Colonel was returned absent by leave and the horses being effective were returned recruiting.

Q. Did you understand they were taken from the ranks to be made curricie horses of by the Colonel?

A. I knew it was Colonel Burgoyne's intention to try them in harness.

Q. Do you know that they were used by Colonel Burgoyne as curricie horses, at the time they were returned on command?

A. I don't know of myself, but I believe they were.

- Examined by Prisoner through Court.

Q. When did the horses which you wrote Col. Burgoyne word had replaced those the Colonel took join the Regiment?

A. On the 2d July 1758.

Cornet Gregson was called.

Examined by Prosecutor.

Q. Do you know of two troop horses been taken from the Regiment at Ayre, by Colonel Burgoyne, and sent into Essex, and do you know how those two horses were employed in Essex?

A. I saw those two horses in Essex, and knew they came from the Regiment, but can't say how they were employed; but I never saw them on the recruiting service in Essex.

Q. Were

Q. Were those horses returned among the number of troop horses in your requisitions for forage in Essex?

A. No, they were not.

Cross-examined by Prisoner.

Q. When did you arrive in Essex?

A. 15th August 1798.

Q. What is the date of the order I gave you concerning the feeding of the horses in Essex?

A. Either the 15th or 16th August 1798.

Examined by Court.

Q. Did you consider those horses as part of the strength of your recruiting horses which were not worked?

A. I did not consider them on the strength of the Regiment.

Samuel Saltmarsh, a Private, Sworn.

Examined by Prosecutor.

Q. Did you groom two horses in Essex which came from Ayre camp, and in what manner were they employed, and where kept?

A. I did; and they were employed in Colonel Burgoyne's coach, and kept at the Colonel's house, at the Colonel's private stable.

[It is admitted by the Colonel that the horses went to London.]

Q. Did you ever see those horses employed as troop horses on the recruiting service in Essex?

A. To the best of my recollection I never did.

Q. Were those two horses drove in the Colonel's carriage from Sept. 1798, to the Dec. following, while the Colonel remained with the Regiment in Ireland?

A. I am not certain.

Cornet

Cornet Daniel was called.

Examined by Prosecutor.

Q. Do you remember two horses that went from Ayre to Essex whilst you were on the recruiting service?

A. I saw two horses there that came from the Regiment.

Q. How were they employed in Essex?

A. Colonel Burgoyne employed them in his coach, and kept them in his own stables.

Q. Were you Pay-master to the recruiting party in Essex?

A. I was.

Q. Did you charge forage for them two troop horses?

A. Yes; they were included in the recruiting account.

Q. Were those two horses drove in the Colonel's carriage while the Colonel was with the Regiment in Ireland?

A. I cannot charge my memory as having seen them as such.

Cross-examined by Prisoner.

Q. What number of horses had I a right to draw forage for, I mean for my own use?

A. I believe you were entitled to draw for four.

Q. How many were charged in your recruiting account for me?

A. Two.

Examined by Court.

Q. Were those two the Colonel drew for in addition to the two you charged in your recruiting account?

A. The two were drawn for expressing Colonel Burgoyne's name, the other two (meaning the two
in

in Colonel Burgoyne's employment) were drawn for among the troop horses.

Q. Were the two curricie horses charged to Government after Colonel Burgoyne went to Ireland?

A. The Colonel went to Ireland the 9th Sept. 1798, and those horses were charged up to the 24th Nov. following.

Q. If Colonel Burgoyne has returned those two horses as part of his, must he not have paid a certain sum per day for each horse's forage, and by returning them as troop horses, did not Government pay the whole amount of forage?

A. Yes, he must have paid 8s. 4d. a day for each horse if he returned them as his own; but returning them as troop horses, Government paid the whole as I understand.

Q. Had Colonel Burgoyne any horses with the Regiment at the time he returned, but two, for himself in Essex?

A. I don't know.

Q. Did these horses do any military duty from 9th Sept. to the 24th Nov. 1798?

A. I was not there the whole time; but I can answer from the 9th Sept. to about the 20th Oct. to the best of my knowledge they did not.

Lieutenant Jarvis was called.

Examined by Prosecutor.

Q. Does it appear from your books whether Government was charged with the forage of 2 horses, as troop horses, which the Colonel took into Essex from the Regiment at Ayre.

A. It does.

Q. Was there ever an order for casting the two horses taken from Ayre?

A. Not to my knowledge, and if there was such an order it would appear on my books.

Q. You

Q. You say Government was charged with the forage of those two horses, how long was Government charged with them?

A. From 20th June 1798, to the 24th Nov. following.

Cross-examined by Prisoner.

Q. How many horses did I return for my own use, whilst the recruiting party was at Essex?

A. Two.

Q. How many had I a right to charge?

A. I told you formerly you had a right to charge four, but I now understand that when officers are on leave of absence they are not entitled to any.

Q. Is an officer entitled to forage when recruiting, and is his allowance the same as when with the Regiment?

A. Yes; with this difference that in England the rations are different from what is allowed in Ireland.

Q. Did you not act as Pay-master and make out the returns in 1795?

A. Yes.

Q. Did I not then charge for four horses whilst I was recruiting for the first augmentation?

A. I believe they were charged, but the horses were at your own stables, but I cannot specify any precise time of the charge.

Q. If I had orders from his Royal Highness the Commander in Chief to remain in Essex on the recruiting service, do you not imagine that I had a right to charge four horses, as much as a Cornet has to charge two?

A. Yes.

Examined by Court.

Q. Can you inform the Court when or where Colonel Burgoyne sent two troop horses to the Regiment, for which he did not charge Government with the price?

A. Yes,

A. Yes, there were two horses recruited for the Regiment by Colonel Burgoyne on the 5th Dec. 1798, without any expence to Government, which joined on the 3d June last, in place of two horses taken by him.

Examined by Prisoner through Court.

Q. Did any recruited horses arrive at the Regiment from Essex, between 5th Dec. 1798, and 3d June 1799?

A. No.

The evidence in support of the prosecution of the 3d Charge being here closed, the Court proceeded to the 4th Charge.

IV. CHARGE.

Edward Saltmarsh, Private, was Sworn.

Examined by Prosecutor.

Q. When and where were you enlisted?

A. About two years ago at Haddington in Scotland.

Q. Did you ever get your bounty?

A. Yes, I did.

Q. When and where did Colonel Burgoyne pay you your bounty, and how much did he give you?

A. At Naas, he gave me 6 guineas the 30th of September last.

Q. Was it since you heard in the Regiment that the Colonel was to be brought to a Court Martial?

A. Yes.

Q. Did you ever apply before to Colonel Burgoyne for your bounty, and did you apply to him more than once?

A. Yes, I applied to him three times.

Q. Do you know what bounty Government allowed for a recruit when you enlisted?

E

A. I

A. I believe 6 guineas.

Q. Was there any more recruits enlisted, or joined as recruits about the time you enlisted?

A. There were some joined the Regiment just after I enlisted.

Cross-examined by Prisoner.

Q. Who paid you your bounty?

A. Cornet Daniel.

Q. Do you know when I ordered Cornet Daniel to give it to you?

A. I don't know.

Q. Did you not always expect to have your bounty?

A. Yes.

Q. Did I not tell you before I went to England that I meant to give you a bounty?

A. Yes.

Q. Do you not know that this is a new charge given in since I came from England?

A. I don't know it myself, but I have heard so.

Q. Were you not my apprentice?

A. Yes.

Q. Have I not brought you up from a child?

A. Yes.

Q. Have I not paid considerable sums for your clothes and education?

A. Yes.

Q. Have I not at all times treated you with kindness?

A. Yes.

Q. Do you not know that your bounty being withheld was at the request of your father, and that it would be preserved for you until you should have actual occasion for it?

A. My friends told me so.

Q. Did Captain Graham send for you, and what did he say to you upon this subject?

A. He

A. He did, he asked me if I had received my bounty, I replied not, he desired me not to ask you for it, as he meant to bring it as a charge against you.

Q. Did you not tell him that I had promised to pay it to you?

A. I told him that you said you would see about it when you came back.

Examined by Court.

Q. What is your Captain's name, and did you ever apply to him for your bounty?

A. I am in the Colonel's troop, Captain Webster is Captain Lieutenant.

Q. Were you dissatisfied that you were not paid your bounty?

A. I was by no means dissatisfied as I thought I should get it.

Examined by Prosecutor through Court.

Q. Did not Captain Graham often ask you, how often you had applied to Colonel Burgoyne for your bounty, and did you not reply that you asked often for it, but never could get it, and it was very hard upon you, as you were very much in debt?

A. He asked me how often I had applied for my bounty, and I said three times, but I don't remember saying any thing of the latter part.

Q. Did you not tell Captain Graham that you were near 6/. in debt?

A. I don't remember it.

Examined by Court.

Q. When you enlisted did you expect to receive your bounty as soon as you were attested?

A. No, because the Colonel was not with the Regiment.

Q. When did the Colonel last go to England, and how long before he went did he promise you your bounty?

A. He went to England in August I believe, and he promised me the bounty the night before he went.

Examined by Prisoner through Court.

Q. When Captain Graham spoke to you, was not Colonel Burgoyne absent in England, and did he say that he had made a charge of the business, or that he intended to make one?

A. The Colonel was absent in England, and Captain Graham said he was going to do it.

It being 3 o'Clock, the Court adjourned till to-morrow at 10.

Friday 18th October, the Court met pursuant to Adjournment.

Saltmarsh was called.

Examined by Court.

Q. Did you ever apply to the Commanding Officer of your troop for your bounty?

A. I applied to nobody but to Colonel Burgoyne about it.

Q. Were you in debt when you received your bounty at Naas, and to what amount?

A. I was between 5 and 6*l*. in debt.

Q. Were you put under stoppages for that debt, how much was that stoppage, and by whose order were you so stopped?

A. I was put under stoppages for two weeks, but don't know by whose order.

Q. How long after you enlisted were you informed that Colonel Burgoyne withheld your bounty at the desire of your friends?

A. About half a year after I enlisted.

Examined

Examined by Prosecutor through Court.

Q. Who informed you that Colonel Burgoyne withheld your bounty at the desire of your friends?

A. Several.

Q. Did the Colonel tell you so himself?

A. No.

Q. To whom did you owe the 5 or 6% at Naas?

A. To the Quarter-Master of the troop.

Q. What do you think was Colonel Burgoyne's reason for not ordering your payment sooner, was it your father's desire that it should be so, and did you not acquiesce in it as being intended for your own benefit?

A. Yes.

Q. Did you never complain to any one about your bounty being withheld since you heard it was so, by the desire of your friends?

A. No, without somebody asked me.

Examined by Prisoner through Court.

Q. At what time were you put under any stoppage?

A. A day or two after the Colonel went to England.

Q. Did the Colonel know of your being put under any stoppages?

A. No, the Colonel ordered I should not be put under stoppages.

Q. Did not your friends entrust you to the Colonel's care, and did you not look up to him as your best friend?

A. Yes.

Q. Have you yourself, and have your friends, always been satisfied with the kindness the Colonel has shewn you?

A. Yes.

Q. When you have been asked by any person whether you had received your bounty, and answered

swered you had not, did you answer *you had not*, as a complaint, or merely answering a question?

A. Merely as answering a question.

Quarter-Master Samuel Hawkins was sworn.

Examined by Prosecutor.

Q. What troop do you belong to?

A. I belonged to the Colonel's troop till October last, and I am now in Captain Bunds.

Q. Do you know Edward Saltmarsh, and have you ever had any conversation with him as to his bounty, and upon what occasion?

A. Yes, in June or July 1798, when I settled with him, he was not satisfied that I did not give him credit for his bounty.

Q. How did he express his dissatisfaction, and tell what passed between you?

A. He at first refused signing the book, but when I told him I had not his bounty, he then signed it, and said he would see who had it.

Q. How long had he then been in the Regiment?

A. As well as I recollect less than half a year.

Q. Has he ever since made such complaint to you, and how often, and how lately?

A. Yes, in Drogheda in the beginning of August last.

Q. Did he make such complaints of himself or in consequence of your asking him questions on the subject?

A. It was on my asking him if he had got his bounty.

Q. Did he ever tell you upon such occasions, that the Colonel withheld his bounty at the desire of his friends?

A. No.

Q. Did

Q. Did he in any of his complaints to you, use violent language upon the subject?

A. No more than his being very pert, particularly in June or July 1798, when he settled his account with me.

Q. When you applied to him in Drogheda relative to his bounty, was it not by directions of Captain Graham, and did not Captain Graham tell you he meant to bring a charge against Colonel Burgoyne for withholding recruits' bounty?

A. It was.

Cross-examined by Prisoner.

Q. Was he in debt when he complained on settling his accounts?

A. I believe he had a credit of 2 or 3 shillings.

Q. Why did you quit my troop?

A. I don't know.

Q. Were you not confined by my orders?

A. I was.

Q. Was it not about the time you quitted my troop?

A. It was after.

Q. How long after?

A. About ten days after.

Q. Was it not because you were accused of having spent the troop money committed to your care?

A. Yes, I was accused; but I had not an opportunity of clearing myself, as I had not my books with me at that time.

Q. Did you not ask for an opportunity of clearing yourself by demanding a Court Martial?

A. I don't remember that I asked for one.

Examined by Court.

Q. When you asked Saltmarsh at Drogheda, whether he had received his bounty, did he answer in a complaining manner, or merely answer the question?

A. In

A. In a complaining manner.

Q. Do you think he would have complained on the subject, had you not spoken to him?

A. I don't know.

Q. Did you in any manner or at any time, or at the desire of any person try to instigate him to make a complaint?

A. I did not.

Lieutenant Jarvis was called.

Examined by Prosecutor.

Q. In what manner have you charged in your books Edward Saltmarsh's bounty?

A. Eight guineas to Government.

Q. To whose credit have you placed those 8 guineas?

A. To Colonel Burgoyne's.

Q. How long has the Colonel had credit in your books for the entire bounty of Edward Saltmarsh?

A. Since January 1798.

Q. Were there other recruits enlisted about the same time as Saltmarsh?

A. Yes.

Q. How do their bounties appear in your account?

A. There are *three* besides *Saltmarsh* charged to Government at 8 guineas each, namely, John Murdock, Robert Boyle, and William Pelly.

Q. How are these bounties credited?

A. To Colonel Burgoyne.

Q. Do you mean that their entire bounty is credited to the Colonel?

A. Yes.

Q. Do you know how much of it he gave those three recruits?

A. I have charged Colonel Burgoyne with six guineas each.

Q. Was

Q. Was the Colonel with the Regiment when Edward Saltmarsh and those other three recruits were enlisted?

A. He was not.

Q. By whose authority did you credit Colonel Burgoyne, with two guineas a recruit in those instances?

A. It is the mode that I have always done, as Colonel Burgoyne took the recruiting account upon himself.

Q. Do you mean that the Colonel had two guineas profit upon all recruits, whether recruited by himself or not?

A. I think he could not have two guineas profit, as there were bringers of recruits to pay.

Q. Out of the two guineas per man, how much profit had the Colonel after the expences of bringers and other contingencies?

A. I can't tell.

Q. Had he any?

A. The only instance I know is Edward Saltmarsh, the Colonel had eight guineas credit for him, and I had charged six guineas for the bounty to be given him, which as the Colonel would not allow, I re-charged myself with it.

Q. What did the Colonel say to you about altering the charge as to Saltmarsh's bounty?

A. Nothing more than what I have already mentioned, except saying that he had already paid him more than his bounty.

Q. Did he say that he kept Saltmarsh's bounty by the desire of his friends?

A. He did.

Q. Did the Colonel recruit those four men himself?

A. Two of them, namely Boyd and Pelly.

Q. Is it usual for officers who have not recruited men to receive part of their bounty as a perquisite?

A. I

A. I have already said that Colonel Burgoyne has had the full credit for their bounty, and was charged with what each recruit got, until an order of May or June 1798, in which there were certain regulations and allowances made to Officers recruiting.

Q. If there were any profits on recruits after paying bringers, did they not go into Colonels Burgoyne's pocket, or to his credit?

A. Yes, if there were any.

Cross-examined by Prisoner.

Q. Was not Edward Saltmarsh enlisted before the new regulation for recruiting was issued?

A. Yes.

Q. Did you pay the balance of the bounties to me, or was it expended for Regimental purposes?

A. It was expended for Regimental purposes as my accounts will explain.

Q. Do you know any instances of my discharging men that I did not think a credit to the Regiment, and enlisting others in their places, without expence to Government, but at my own expence?

A. There were four men discharged and others recruited in their place without any expence to Government.

Q. After paying all incidental expences, do you imagine I had any profit on all the recruits enlisted since the Regiment was raised?

A. Since I have been Pay-master I believe you have not been a gainer by recruits.

Q. Have not the recruiting orders you alluded to, been strictly attended to?

A. I believe they have.

Examined by Court.

Q. What did you do with the six guineas you charged Colonel Burgoyne for recruits?

A. Paid

A. Paid to the recruits.

Q. Do you suppose Colonel Burgoyne was at any loss by recruits deserting before they were passed?

A. I can't say.

Q. At what time does your accounts as Paymaster commence?

A. 25th February 1795.

Examined by Prosecutor through Court.

Q. Did the men discharged by the Colonel pay any thing for their discharge?

A. Those men did not.

Q. If Colonel Burgoyne did expend the profits on recruits in Regimental purposes, had he not other funds to answer those purposes if he choose to confine himself to the orders of Government?

A. The accounts will best shew if the Court choose to refer to them.

Q. Have you not heard the Colonel complain that he had often lost considerably by men's deserting, before they were approved, within the last two years?

A. I can't say within that period, but I have heard him say so, before that period.

Q. Have you not heard him mention the desertion of a man who called himself Bacons Brothers, a man of the name of Wilton, and a man who deserted when Cornet Sharpe gave him a furlough?

A. I have heard the Colonel speak of Wilton, but don't remember of the other.

Examined by Court.

Q. Did Colonel Burgoyne ever assign to you any reason for taking credit for the two guineas per man, deducted from the bounty of each recruit?

A. He never assigned any reason, but he has paid recruiting expences as per account.

Q. From

Q. From your transactions as Pay-master with Colonel Burgoyne, is it your opinion that the deduction was made in order to cover incidental expences on the recruiting service?

A. I believe it was.

Examined by Prosecutor through Court.

Q. If a man deserted when on furlough, before approved of, from Cornet Sharpe (who was recruiting officer) did not the desertion go out of Cornet Sharpe's pocket?

A. I suppose it did, I mean since the recruiting order I allude to.

Examined by Prisoner through Court.

Q. Are not several men returned deserted in Cornet Daniel's, and Cornet Sharpe's account, and have you not absolutely settled the subsistence of these deserters with the above mentioned Officers?

A. I have.

Q. How then can you say that you know of no desertions?

A. I meant not from the Regiment but from the Recruiting Officers.

Q. Do you know of any desertions in the last year, by which Colonel Burgoyne has been a loser?

A. I can't say.

Q. Do you remember Colonel Burgoyne's saying to Cornet Sharpe, that he might have the settling with the recruits or not, as he pleased, that if it was an advantage it should be his, if it were a loss it should be Colonel Burgoyne's, and that Cornet Sharpe desired to have nothing to do with the recruits enlisted before his arrival in Essex?

A. I do.

Q. If a desertion had happened before a recruit was approved of, and before the order alluded to
was

was issued, would not that desertion have been charged to Cornet Sharpe?

A. The loss would be to the Colonel I suppose.

The evidence in support of the prosecution of the 4th Charge being here closed, the Court proceeded to the 5th Charge.

V. CHARGE.

Captain Webster was called.

Examined by Prosecutor.

Q. Produce your Orderly Book of the 17th and 18th Dec. 1798.

[The Evidence produces the Book required, from which the following extracts are taken, and read to the Court.]

Regimental Orders.

*Loughlinstown Camp,
Dec. 17th, 1798.*

The orders marked X must be considered as standing orders of the Regiment, and must not be altered by any Officer who succeeds to the command, as long as the Regiment continues at this place.

X A sadler and boot-maker will be constantly employed to repair ;—Cornet Daniel having undertaken to manage the business, Officers commanding troops will always apply to him when repairs and new articles are wanting.—He will keep an account of entries and issues ; Officers will sign for all things given out ; but a new article will never be given without the old one being received into stores.

Orders, 18th Dec. 1798.

Cobb and Gray will act as Lance-Corporals in the A troop, and receive Corporals pay from the 24th,

in lieu of Westrop and Cooke employed in repairing boots and saddles.

The regimental taylor's must work four days in the week for the Colonel—they must work one day in the week gratis in mending for the men.

Q. Who gave the orders above recited?

A. Colonel Burgoyne.

Q. Were Westrop and Cooke, mentioned in those orders as working men, full corporals?

A. They were.

Cross-examined by Prisoner.

Q. Would it not have been difficult, if not impossible, to get men to come to the camp to work at this time?

A. It would.

Q. What price was given to the sadler who came to work from Dublin?

A. I have been informed 6 shillings a day.

Q. Do you not know that great fraud was committed in employing the sadlers and boot-makers of this country?

A. I do not.

Q. When we were on the British Establishment, if frauds were committed on regimental work, on whom would the loss have fallen?

A. On the public.

Q. Could I at the time we were at Loughlinstown Camp, have been a gainer or a loser, or had I the smallest interest in the precautions I took, except wishing to do my duty for the Regt. and the public?

A. No.

Q. Was I more liberal in providing and repairing regimental appointments when I acted for the public, or for myself?

A. There has been a great deal more provided, and more money expended since you have had the off-reckonings to yourself.

Examined

Examined by Court.

Q. When was the Regiment put on the Irish Establishment?

A. 25th May 1799.

Examined by Prosecutor through Court.

Q. Did not those men continue to work in the town of Drogheda, when work could have been easily done by town's-men?

A. They did; and I should imagine workmen might have been found in town, but at a great expence.

Q. Have not these men been continued to work since the Regiment was put on the Irish Establishment?

A. Yes.

Q. How many were there at work, including taylors, sadlers, and coblers, at Loughlinstown Camp?

A. Nine.

Q. Was one sadler sufficient for the repairing the work of the Regiment at Loughlinstown Camp?

A. No.

Q. Were not sadlers easily found to come to camp from Dublin, when Major General Needham gave orders for all repairs to be compleated immediately on account of the bad state of the accoutrements?

A. We had one at six shillings a day expence.

Examined by Prisoner through Court.

Q. Was the Regiment well or ill appointed when the Col. took it upon his own account on the 25th May last?

A. Very ill appointed.

Q. What is the state of the Regiment's appointments at present?

A. In general in very good order.

Q. Could

Q. Could the Col. have compleated the Regmt. as well, and as expeditiously, by employing the workmen of Drogheda, as by your own people?

A. I can't say, as it never was tried.

Q. What was the reason the Regiment was ill appointed in May last?

A. Our appointments went very much to wreck by being at Loughlinstown Camp.

Examined by Court.

Q. Can you by your letter book, or otherwise, shew that the Colonel made representations to Government of the well-appointment of his Regmt. in May last?

A. I cannot.

Q. Were not the appointments of the Regmt. in May last kept in order by the expence of Great Britain, and not by the Colonel.

A. They were.

Lieutenant Colonel Scudamore was called.

Examined by Prosecutor.

Q. Were you with the Regmt. at Loughlinstown Camp the 17th and 18th December last?

A. I was.

Q. Do you remember the orders issued about that time by Col. Burgoyne as to repairs of appointments and workmen?

A. I do.

Q. What was the condition of the Regt. at that time, as to accoutrements and appointments?

A. There were a great many deficiencies, and the saddles and boots, and particularly the collars out of repair, and buckets wanting for the augmentation.

Q. To what do you attribute the Regmt. being ill appointed at that time?

Q. Did

A. To several circumstances : in the first instance, by buckets not being furnished for the augmentation, and the necessary repairs not being made.

Q. Did the command of the Regmt. devolve on you soon after this order of 17th Dec. last ?

A. It did.

Q. Were you obliged to remonstrate with Major General Needham on account of those orders of Colonel Burgoyne's ?

A. I was.—I felt myself in a disagreeable predicament, having the responsibility of the Regmt. in the post of Loughlinstown Camp, with several detachments on active duty,—that from the state of the appointments, I thought the Regmt. incapable of doing the whole of the duty that Government had a right to expect.—I did not choose to resist the orders Col. Burgoyne had issued, without consulting the General Officer of the district.

Q. Did you conceive one sadler and two shoemakers sufficient to keep the Regmt. in fit repairs for that time ?

A. I should think not sufficient to keep it in repair, and certainly not sufficient to *put it in repair*.

Q. While the Regmt. was under your command at Loughlinstown, was Capt. Graham's troop fit for service, when it received orders to march to Dublin for the escort of the mail-coach duty ?

A. A part was, not the whole.

Cross-examined by Prisoner.

Q. Did you not understand that I was disappointed by the London tradesmen, of many accoutrements that I expected; when the recruits for the augmentation arrived at quarters ?

A. I think I have heard you say so,—and afterwards saw a letter from you, in which you expressed your surprise that the chains for the collars had not come to the Regmt.

F

Q. At

Q. At what time did you make a representation to General Needham?

A. Very shortly after the command devolved on me.

Q. Did you inform me by letter of the inconvenience the Regt. suffered from the bad state of its appointments before you made this representation?

A. I did not,—nor did I conceive there was a necessity for it, as you were apprised of it before you left the Regmt.

Q. Did I not write you word in the ensuing spring, that I had orders from the War-Office, not to send the deficient appointments?

A. You did.

Examined by the Court.

Q. Did you ever represent to Col. Burgoyne, either previous to his absence from the Regt. or before his return, that inconveniencies would accrue to the service from orders before recited?

A. I wrote to the Col. soon after receiving General Needham's instructions.

Q. Did you think you were so confined by the standing orders of Col. Burgoyne, after the command devolved on you by his absence, that you could not employ such people to put your appointments in order for service as you thought necessary?

A. I did not think myself so confined, but I thought it was a respect due to the Col. to make application to the General Officer of the district touching those orders.

Q. Was there any immediate injury to his Majesty's service in consequence of repairing work being confined to the men of the Regt. by Colonel Burgoyne's orders as before stated?

A. There was no immediate circumstance that called out the whole Regmt., but had they been called out, the whole could not have gone equipt.

Q. How

Q. How many men would it have been necessary to have been left behind for want of appointments?

A. If the Regmt. had been ordered to take the field, one half of them could not be made fast to the picket with the collars we then had.—The state of the Regt. with respect to those particulars would be better ascertained by referring to the returns whilst I had the command.

Q. If the whole Regmt. had been called out, would not those men employed at work have joined them?

A. They certainly would.

Q. Did you ever see an order of Col. Burgoyne's, directing that the repairing work of the Regiment should be executed by certain non-commissioned officers and privates, and no other persons?

A. I think that is the purport of the order.

It being 3 o'Clock, the Court adjourned till to-morrow at 10.

Saturday the 19th October the Court met pursuant to adjournment.

Lieutenant Colonel Scudamore was again called.

Examined by Prisoner through Court.

Q. What is the order that you think conveyed that meaning?

A. I think the order of the 17th and 18th Dec. last (which are before the Court) conveyed that meaning.

Q. What did General Needham do in consequence of your representation?

A. He told me that employing 2 non-commissioned officers for that purpose, could not be admitted,

as it was a breach of the standing orders of the kingdom, and desired that they might be immediately directed to do their duty.

Q. Did you communicate General Needham's sentiments to Col. Burgoyne?

A. I did immediately, and to the best of my recollection nearly in the words I have stated.

Q. Did Col. Burgoyne make these corporals work after receiving such communication from you?

A. Col. Burgoyne never sent me orders to that purpose, but since the Colonel's rejoining the Regt. they have worked, but not as corporals.

Q. When Westrop and Cooke were repairing appointments at Loughlinstown, were they then considered as non-commissioned officers?

A. Certainly they were.

Q. As Lieutenant Col. of the Regmt. it is to be presumed you know in some degree the Colonel's intentions in issuing the orders of the 17th and 18th December last, will you therefore, to the best of your knowledge or opinion, explain whether the good of the service dictated such orders, or do you suppose they were given to save money to the Col. —If for the latter purpose, do you think the service was injured by such economy of Col. Burgoyne's?

A. As the Regmt. was at that time on the British Establishment, the savings could not be for the benefit of the Col. our's being a Fencible Regmt.

Examined by Court.

Q. What do you understand by the order of the 18th Dec. relative to the appointment of Cobb and Grey in lieu of Westrop and Cooke?

A. My construction of it is, that Westrop and Cooke were to remain the actual corporals, and the others to do the duty, and receive the difference between corporals and private's pay.

Q. Has not the Col. of the Regmt. the power of reducing non-commissioned officers, and is it usual for

for a lance-corporal to receive full pay as corporal?

A. He has a right to reduce non-commissioned officers, but it is not usual for lance to receive pay as corporals.

Q. If the Colonel had applied to have the Regiment put on the Irish Establishment, and that his application was complied with, would not the savings then go into his pocket?

A. Of course they would.

Examined by Prisoner through Court.

Q. Was not Cooke and Westrop well pleased and satisfied to give up their pay as corporals and to be paid for their work?

A. I dare say they were.

Q. At what time did you communicate to Col. Burgoyne the General's sentiments?

A. I don't recollect.

Q. Did you inform Colonel Burgoyne that the General's orders were obeyed, was there any necessity of the Colonel's giving any further orders, when he was in England?

A. I did, and there was no necessity that I know of.

Q. Do you think from the order of the 18th December that Westrop and Cooke were suspended from their functions as non-commissioned officers?

A. They were not suspended from their functions as corporals, but they were not employed in their functions—had the Regiment been called out, they were actual corporals, and would have been employed as such.

Q. As the Officer on whom the command of the Regiment was to devolve, did you represent to the Colonel before his departure for England, and after the orders of the 17th and 18th December 1798,
that

that inconvenience or injury to the service might arise from the orders?

A. I don't recollect that I did.

Q. It having been stated in general to this Court that the savings on various articles of forage &c. went to Colonel Burgoyne's credit, do you suppose that to have been the case, or were those savings credited to the regimental account?

A. I am certain that no savings were ever credited any regimental account, nor do I know of any.

Samuel Cook, Essex Fencibles, Sworn.

Examined by Prosecutor.

Q. What rank do you now hold in the Essex Fencibles?

A. I have been private these last two months.

Q. Were you corporal when the Regiment lay at Loughlinstown camp, in December 1798?

A. Yes.

Q. Did you do any work there, and of what nature?

A. Yes, at the Sadlery business for the Regiment.

Q. Who did your corporal's duty at that time?

A. William Cobb.

Q. Did you receive corporal's pay at that time?

A. No.

Q. Who received your corporal's pay?

A. William Cobb, that is to say, the difference between corporal's and private's pay.

Q. Why did he receive that difference?

A. During the time that I was at work and he doing my duty.

Q. Did you receive private's pay at that time?

A. Yes.

Q. Have

Q. Have you been mustered as a corporal since you left the camp at Loughlinstown until within these last two months?

A. Yes, once at Drogheda.

Cross-examined by Prisoner.

Q. Did I not promise that you should not be a loser by being employed as a Sadler?

A. Yes.

Q. Did I not tell you that in case of your not being employed as a Sadler, you should be restored to the rank and pay as corporal, provided you behaved properly?

A. Yes.

Q. Were you perfectly well satisfied with my behaviour towards you?

A. Yes.

Examined by Court.

Q. When did your pay cease as corporal at Loughlinstown camp?

A. On the 28th November 1798, and the Colonel then allowed me seven shillings a week.

Q. What is the full pay of a corporal?

A. Eighteen-pence a day.

Q. On the 28th November, when your pay ceased as corporal, did you do any duty as such, between that period, and the 24th December following?

A. No.

Q. When your pay ceased as corporal, and the duties of a corporal not performed by you, did you consider yourself suspended from that station during Colonel Burgoyne's pleasure?

A. I did not.

Joseph

Joseph Westrop, Essex Fencibles, Sworn.

Examined by Prosecutor.

Q. Were you a corporal when the Regiment was at Loughlinstown camp?

A. I was.

Q. What work did you do there?

A. Repairing boots for the Regiment.

Q. Did you then receive your pay as corporal?

A. At the time I worked, I did not.

Q. Who received it, and why did he receive it?

A. James Grey, who did my duty as corporal.

Q. Have you since you left Loughlinstown camp, and while at Drogheda, worked at boots, and was it before you were reduced from a corporal?

A. I did, and it was before I was reduced.

Cross-examined by Prisoner.

Q. How long at Drogheda did you work at mending boots, whilst you were a corporal?

A. About three days as well as I recollect.

Q. Have I not promised you, that you should be no loser by being employed in mending boots, and that if you should be taken from your work, you should be restored to your rank and pay as corporal?

A. Yes.

Q. How long did Cooke work before he was reduced?

A. About the same time.

Q. Are you perfectly satisfied with my behaviour towards you?

A. I am.

Examined by Court.

Q. Did you ever make any agreement with Grey for doing your duty as corporal?

A. I did not.

Examined

Examined by Judge Advocate.

Q What did you receive a week while you were doing regimental work ?

A. Seven shillings besides my private pay, and Cooke had the same.

Examined by Court.

Q At what period did your pay cease as corporal ?

A. I can't recollect the time.

Q By the order of the 18th December 1798, did you consider yourself suspended from the station of a corporal, during Col. Burgoyne's pleasure ?

A. I did.

Q Were you always mustered as corporal at Loughlinstown camp, and had you not a right to your pay as corporal when you ceased to work ?

A. Yes, and I had it.

Q Was the difference between corporal's and private's pay stopped from you, with your own consent ?

A. It was.

Q Was it ever mentioned to you that Grey or any other soldier who might do your duty as corporal would receive the deduction made from your pay, as a recompence for doing that duty ?

A. It was by Colonel Burgoyne.

Examined by Prisoner through Court.

Q Is it Colonel Burgoyne's custom to call the workmen from work, when the duty falls hard upon the Regiment ?

A. Yes.

The

The following Orders were produced and admitted
by Colonel Burgoyne :

Regimental Orders, 17th May 1799.

A Taylor per troop will immediately mend the blue jackets.—Westrop, Freeman and Sewell will immediately mend the boots.

R. O. Drogheda, May 26th 1799.

The following promotions and transfer will take place from the 25th instant, corporals Westrop and Cooke being employed in repairs of saddling and boots, are by their own consent reduced; William Cobb, and Moses Davy, are appointed corporals in their place, and will be obeyed as such.

John Armit, Esq; Army Agent Sworn.

Examined by Prosecutor.

Q Are you agent to the Essex Fencible Regiment of Dragoons?

A. Yes.

Q Did you ever inform Lieutenant Colonel Scudamore, that Col. Burgoyne had written to request you would use your exertions to get the Regiment put on the Irish Establishment *antedated* to the day of its landing in Ireland?

A. I do not recollect whether I did or not, but I always understood it was Colonel Burgoyne's wish to have the Regiment placed on the Irish Establishment, and to be *antedated*, and I might have told Lieutenant Colonel Scudamore the impropriety and difficulty of obtaining such a request.

Q Did Colonel Burgoyne ever inform you that
he

he wrote to England, applying to have the Regiment placed on the Irish Establishment from its landing?

A. I can't recollect.

Q. Did the Colonel ever apply to you to assist him in accomplishing that object?

A. Very likely he did, and it was certainly my interest as well as inclination to get it done.

Cross-examined by Prisoner.

Q. Did I ever express a wish that the men would be obliged to refund any pay they had received?

A. No.

Q. Have I not done just the contrary by giving the men 300 guineas to induce them to accept Irish pay, and to remain in Ireland as long as required?

A. I recollect your drawing on our house for that sum, and you told me it was for the purpose of reconciling the men to the Irish Establishment.

Q. Could I charge that money to Government, or was it entirely at my own expence?

A. As Government would not allow that charge it must consequently fall on you.

Q. You said it was my wish to be put on the Irish Establishment, did you understand it was likewise the wish of the Lieutenant Colonel, Major, and Captains that the Regiment should be so placed?

A. I never heard those Officers express such a wish to me.

Q. Did any of those Officers complain to you of an attempt to place the Regiment on this Establishment?

A. I don't recollect.

Q. Have you not understood they were very averse to it?

A. I can't say.

Examined

Examined by Court.

Q. You said it was always the wish of Colonel Burgoyne to have the Regiment placed on the Irish Establishment; can you explain his motives?

A. I can only give my opinion, because it was his interest, as the Colonels of Fencible Cavalry has not the same advantage as this establishment, not being allowed the advantages of off-reckonings.

Q. Do you not know that every other Officer and man in the Regiment lost by being put on the Irish Establishment?

A. They lost the difference of currency.

Q. Was it not then Colonel Burgoyne's interest to put the appointments in perfect repair whilst it remained on the British Establishment?

A. It certainly was.

Q. Was it possible for Colonel Burgoyne to gain any thing, when he gave the Regiment 300 guineas, and pledged himself not to be benefited by the change, but to give his gains to the Regiment?

A. He certainly could not—the 300 guineas would cut deep in any advantages.

Q. If the Regiment being put on the Irish Establishment, had been *antedated* from the time of landing, would it have been Colonel Burgoyne's interest to keep the Regiment in perfect repair while in Ireland?

A. I don't think it would be his *interest*.

Examined by Court.

Q. Was it not in the month of May last, that Colonel Burgoyne drew on you for those 300 guineas.

This admitted by Colonel Burgoyne.

The Prosecution of the 5th charge being here closed, the Court proceeded to the 6th charge.

VI.

VI. CHARGE.

Major Crosse was Sworn.

Examined by Prosecutor.

Q. Did you command the Regiment at Haddington in January 1798?

A. I did.

Q. Did you at that time appoint a court of enquiry upon regimental claims?

A. Yes.

Q. At whose desire did you appoint it, and under what circumstances?

A. By Col. Burgoyne's, relative to various articles he ordered the Officers to pay for, which they thought they had no right to, and Colonel Burgoyne requested me to order the court of enquiry to investigate the matter, as he was then going to Edinburgh for his own Court Martial, and consequently could not give the order himself; I ordered the court of enquiry which sat, and I ordered the Adjutant to send the proceedings to the Colonel, after my having approved of them.

[Major Crosse here produces the proceedings of the court of enquiry alluded to, which was read in Court, and admitted by Col. Burgoyne.]

Q. Did the Col. comply with the opinion of this court of enquiry, and enforce the same?

A. Not to my knowledge.

Q. Did he treat the proceedings of that court of enquiry with contempt, and if so, in what manner?

A. I conceive he did, by sending me a message in a letter to Lieutenant Jarvis, by which I thought he ridiculed the proceedings of the court of enquiry, and desiring him to tell me to build barracks at
Dunbar

Dunbar and Haddington, that he the Colonel would pay for them at the time he paid for the post and rails at Lincoln.

Q. Are these posts and rails mentioned in the proceedings in the court of enquiry allowed as a charge against the Col.?

A. Yes.

Q. Has the Col. paid the rest of the claims which that court of enquiry adjudged against him?

A. Not to my knowledge.

Q. Did the Col. say in his letter to Lieutenant Jarvis, that he laughed heartily at the court of enquiry?

A. He did.

Cross-examined by Prisoner.

Q. Who ordered those posts and rings at Lincoln?

A. I did, when you left the Regiment, you expressed a wish, that the Regiment should be brought on as much as possible in the sword exercise. It was reported to me (by Mr. Browne who attended to teach the men the sword exercise) that it was necessary to have posts and rings; I then ordered the Adjutant to provide them.

Q. Do you not think that something fit for the purpose, might have been provided for less than 7*l.* 2*s.* 6*d.*?

A. It might have been so, I ordered the Adjutant to provide them, who certainly had no interest in it.

Q. Though you say that I desired you to appoint a court of enquiry to investigate certain claims of the men, did I give you authority to approve of a claim made against me for a sum incurred by your orders without my knowledge or authority, and in my absence?

A. No.

Q. As you commanded the Regiment at Haddington,

dington, had not you as much authority to order the claims to be satisfied, as I had when I returned to the Regiment many months afterwards?

A. Yes.

Examined by Court.

Q. Did you ever apply to Col. Burgoyne for the expence of posts and rings provided in Lincoln?

A. I never did, it was not my business.

Q. Are they paid for and by whom?

A. I don't know.

Q. At what period was Col. Burgoyne released from his arrest?

A. About a month after.

Q. When Col. Burgoyne requested you to call a court of enquiry, did he express a desire that an opinion should be given, and did he signify that he would abide by the decision, and did he know of the claims against him that appeared on the face of the court of enquiry?

A. I should think he did, for this reason, as he said there were several claims unsettled, which a court of enquiry would decide, but I can't say as to the particular claims against the Colonel.

Q. Were those posts and rings made according to the printed instructions of Major Le Marchant to Cavalry Regiments, and which were made circular orders, by his Royal Highness the Duke of York?

A. Yes.

Q. Your Colonel being under arrest, and the court of enquiry having been held by your order, and approved by you, in whom was invested the power of carrying into effect, the decision of the said court?

A. On myself; but in this particular instance, as the Colonel was so much concerned, and having reported the proceedings to him, I thought as the
court

court was instituted by his directions, I should leave the accomplishment of its decision to himself, and having done so, considered I had nothing further to do with it.

Q. Did you ever represent to Col. Burgoyne that you felt yourself agrieved by the decision of the court having been laid aside.

A. No.

Q. Did you ever remonstrate to the Commander in Chief, or General commanding the encampment or district, against Colonel Burgoyne's conduct in this instance?

A. No.

Q. You have said Colonel Burgoyne requested you to appoint a court of enquiry upon the claims of the men, do you mean that this was confined to claims of *men*, or that it extended to Officers and Non-commissioned Officers?

A. I considered all claims.

Examined by Court.

Q. Did you apply to the War-office, according to the orders given to commanding officers for the allowance of this contingent expence?

A. No.

Q. Did you ever propose to Col. Burgoyne that the expence of the posts and rings should be submitted to the court of enquiry?

A. I don't recollect I ever did.

It being 3 o'Clock, the Court adjourned till Monday at 10.

Monday 21st October the Court met pursuant to adjournment, but in consequence of a note sent from

from Col. Burgoyne to the Court, saying that he was indisposed, and not able to attend, the Court adjourned to Wednesday 23d October, at 10 o'Clock.

Wednesday 23d October, the Court met pursuant to Adjournment*.

Major Croffe was called.

Examined by Prisoner.

Q. Though your delicacy prevented your enforcing the execution of those determinations in which I was concerned, was it not your duty to enforce those determinations in which I was not concerned?

A. I thought I had nothing more to do with it after I reported to you.

Q. Be so good as to state to the Court what articles should have been paid by me, if I had not contemptuously (as the charge recited), treated the proceedings of the Court of Enquiry?

A. I must refer the Court to the Court of Enquiry.

Q. You will also state to the Court what articles have been paid by me?

A. I don't know.

Q. From what then did you form your opinion of my conduct on this charge?

A. From your expressions in your letter to Lieutenant Jarvis (as already related to the Court), and

* A paper was referred to the Court, requesting permission to go back to the fourth charge, together with a letter from the Agents in London, refusing the prosecutors leave to investigate the accounts of off-reckonings, which obliged them at that moment to drop the enquiry on this specific instance.—[See Appendix, No. 3.]

from hearing that the determination of the Court of Enquiry had not been enforced.

Q. Did you think those posts and rings absolutely necessary?

A. I did, for the practice of the sword exercise.

Q. When you had the command at Newcastle in the month of May, how long, and how often were they used?

A. I don't recollect that they were ever used at Newcastle, but they were used at Lincoln.

Q. Did you approve of that part of the proceedings of the Court of Enquiry, in which they expressed an opinion, that the Colonel can move a troop whenever he pleases?

A. I read the proceedings attentively, and as they had sat three weeks, and had paid great attention, I thought they merited my approbation, and in consequence I gave it to all their decisions.

Q. Do you not know that a Colonel has no such right, and that I should not have dared to do it without the authority of General Grinfield?

A. Certainly not without a route or an order.

Q. How did the moving Captain Bund's troop contribute to my convenience?

A. It was not for your convenience, but it was agreeable to your wishes and inconvenience to the Captain.

Q. How then could you approve of the decision of the court?

A. I conceived as you ordered it, and that it was without a route, that you should pay the expence of the movement.

Examined by Court.

Q. If you were not satisfied with Colonel Burgoyne's conduct as to the Court of Enquiry, why did you not demand a Court Martial sooner?

A. After

A. After reporting it to him, I thought I had nothing more to do with it.

Q. Don't you call it arbitrary, and un-officer like conduct?

A. Yes.

Q. If an Officer considers himself treated arbitrary and in an un-officer like manner by his commanding Officer, ought he not immediately to seek redress?

A. Yes, I conceive he should.

Q. Why did not you do so?

A. Because I was always in expectation that he would settle the decision of the court of enquiry.

Q. Did not his letter to Lieutenant Jarvis which was shewn to you after sending the proceedings, convey his opinion and intentions on it very clearly?

A. As to the posts and rings it did, but as he had told me before the Court sat, that he would abide by its decision, I had reason to expect he would do so.

Q. Before you made his conduct as to the Court of Enquiry a part of this Charge, did you ask him what he meant to do on the subject?

A. I did not.

Lieutenant Jarvis was called.

Examined by Prosecutor.

Q. Were you desired by Colonel Burgoyne to communicate any message to Major Crossle relative to the Court of Enquiry at Haddington, and did you?

A. Yes, and it was in those words, from a letter dated 16th February, 1798.

“ I have laughed heartily at the proceedings of the court of enquiry—pray give my compliments

to the Major, and tell him that I hope he will order barracks to be built at Dunbar and Haddington, to be charged to me, and that I will pay for them, at the same time that I will pay for the posts, &c. &c. ordered by him."

Q Have you ever yet been paid for the rings and posts, and other charges adjudged by the Court of Enquiry to be paid by Colonel Burgoyne, and have you applied to him for that purpose?

A. The posts and rings have been charged to Government, but there is a small bill of about 20 shillings that has not been paid me by the Colonel, which I have applied to him for.

Q What answer did you receive from him, when you applied to him?

A In December 1797, he said he would not pay me, but it must be charged to the men, but a few days ago he said he would pay me. The evidence here observes that this demand was for hand towels.

Q Did you pay for the rings and posts to the persons who furnished them?

A. Yes.

Q Has Government admitted the charge for those posts and rings?

A. I never heard they were disallowed; had they been so, I should have heard it.

Q How long is it since you charged them to Government, and by whose desire?

A. In June 1798, it was my own act to charge them, and Lieutenant Colonel Scudamore who then commanded signed the account.

Q Before you did so, did you apply to Colonel Burgoyne for the amount at Newcastle or elsewhere?

A. Yes, at Newcastle.

Q Did

Q. Did the Colonel then order you to charge them to Government?

A. He did not.

Q. In what manner and under what head did you charge in your books the sums you paid for the rings and posts?

A. In the contingent account I charged them as such.

Q. Did you enter those sums in your books as bad debts?

A. The sum for the towels is entered as a bad debt.

Q. Did you ever know Colonel Burgoyne to take any further notice of the proceedings of the Court of Enquiry, than what he wrote in the letter to you?

A. I believe he did not.

Cross-examined by Prisoner.

Q. Did you not pay for me 2*l.* 10*s.* to Captain Bund in June 1798, and for what purpose?

A. I did, and it is stated in my book for sundries.

Q. Do you not know that I paid Noah two guineas for bringing the two bonds which is one of the articles mentioned in the Court of Enquiry, recommended to me for payment?

A. I don't recollect.

[The prosecutors here admit that two guineas was paid to Noah, but that it is not part of the sum due Captain Bund by the decision of the Court of Enquiry.]

Q. Have I not also paid something to Quartermaster Hawkins in compliance with the advice of the Court of Enquiry, and was you not present when I paid it?

A. I

A I know of your having paid him that sum, and it is on the face of the Quarter-master's accounts for loss of stores between Feverham and Lincoln.

Q After these two instances how could you say, that I took no notice of the Court of Enquiry after my letter?

A. Because I did not know that there was mention made of them in the Court of Enquiry.

Examined by Court.

Q Do you consider the letter dated 16th February 1798, from Colonel Burgoyne to you as a public or private letter?

A. There were some orders in it, and therefore consider it a public one.

Q When you communicated to Major Crosse the extract from the Colonel's letter, what was the Major's reply to you?

A. I don't recollect any reply he made, but I gave him the letter to read.

Q Did Major Crosse then, or any other time, mention to you he was dissatisfied because Colonel Burgoyne had not paid attention to the opinion of the Court of Enquiry?

A. I don't recollect that he did.

Q Is it since this Court Martial was in agitation that the Colonel paid Hawkins at Drogheda?

A. He was paid the 31st July, or the 1st August last.

Examined by Prisoner through Court.

Q When the Colonel paid the sum to Quarter-master Hawkins, did he know of any charge concerning the Court of Enquiry to be brought against him, and is not that a new Charge delivered to him on the 1st instant?

A. I

A. I did not see any of the charges exhibited till about a fortnight ago, and I believe Colonel Burgoyne did not know that Hawkins's business was to be a charge against him, till the time he mentioned.

Q. Did I desire you to tell the Major that I had laughed heartily at the Court of Enquiry, and was not that expression addressed to you privately, as you conceived?

A. Yes, I conceived the whole was to be communicated to the Major, and of course I gave him the letter to read.

Captain Bund was Sworn.

Examined by Prosecutor.

Q. Have you ever been paid by Colonel Burgoyne, or by his orders, any of the sums reported by the Court of Enquiry to be due to you?

A. No.

Q. Did you ever apply to the Colonel or Paymaster, and what answer did you receive?

A. I often applied to both, but never to the Colonel since the Court of Enquiry sat; when I applied to the Colonel for the expence of carrying the troop's baggage on the march from Deal to Dover and back again, by his orders, and without a route, he said he had paid enough out of his own pocket, and that I must stand at the loss of this; I then said as I could not get redress from my Colonel, I would apply to the General of the district, which I accordingly did; General Griffinfield who then commanded, said he did not wish to interfere with regimental matters, and recommended to the Colonel to refer it to Lieutenant General Sir Charles Grey who commanded the whole district; the Regiment some days after moved to Nottingham, and the matter dropped for that

that time, as I always conceived that Colonel Burgoyne would satisfy that claim;—On my application to the Pay-master, he always said he had nothing to do with it.

Q. Were any of those sums included in the 2*l.* 10*s.* which the Pay-master has since paid you for the Colonel?

A. No, none of it.

Cross-examined by Prisoner.

Q. What was the expence of the baggage from Deal to Dover and back again for your troop, and what does the whole of your demand amount to?

A. Two pounds British.

Q. Since you have paid your clerk that money in the beginning of January 1798, have you ever since applied to me for the payment of that sum?

A. Not to you, but I have to the Pay-master; and having heard that you took no notice of the Court of Enquiry, and wishing to live upon good terms with you, I did not choose to enter into any dispute about such a trifle.

Examined by Court.

Q. Could the Pay-master have given you credit for the expence of defraying your baggage without an order from the Colonel?

A. Since he has been Pay-master, he has been in the habits of settling the Colonel's small accounts with the Officers.

Q. Do you suppose that the Colonel would be more offended at a direct than an indirect application?

A. When I was settling other accounts with the Pay-master, I said to him, Jarvis here is 2*l.* for the carriage of baggage adjudged me by the Court of Enquiry, and you may as well settle that now.—And I don't think he could be offended by an application

application through Mr. Jarvis, more than to himself.

Q. If as you say you did not apply to Colonel Burgoyne for so small a sum as 2*l.* wishing to live on good terms with him, and not thinking it worth while, why do you now think it a subject serious enough to charge him with, before a General Court Martial?

A. Having used my best endeavours to live on good terms with the Colonel, which I found impossible, and at the same time having discovered many enormities, as I conceived, I thought it my duty as an Officer to exhibit charges against the Colonel; and finding by the Court of Enquiry that some private men that made claims, and understanding those claims were never satisfied, I thought in that instance as well as in many others, that the public service was injured; I therefore wished the whole Court of Enquiry to be investigated, in which my own Charge was included, but not for the sake of my demand.

Examined by Prisoner through Court.

Q. What private men do you allude to?

A. Thomas White of the Lieutenant Colonel's troop.

Q. Did the Colonel order you under arrest a very short time before you exhibited charges against him?

A. Yes.

Q. Did he not offer you a Court Martial?

A. Yes. But he said, he was not anxious to bring me to a Court Martial, though I was anxious for it; the matter was however made up through the mediation of General Craig.

Q. Had you any intention of preferring a Charge in which you yourself are concerned against your Colonel before you were put under an arrest?

A. I

A. I had intention of preferring charges before that period.

Cornet Daniel Ellis was Sworn.

Examined by Prosecutor.

Q. Were you at Hadington when Colonel Burgoyne requested Major Crosse to order a Court of Enquiry to sit, to examine into divers claims of the Regiment?

A. I was.

Q. In what manner did the Colonel express himself on that occasion?

A. As well as I recollect, he said that he understood there were certain claims that many persons in the Regiment had against him, and several other interfering claims, which it was his wish to give every satisfaction to, and being in a hurry to go to town, that he would request Major Crosse, as the Colonel was then deprived of command, (being under arrest) to order a Court of Enquiry to investigate those claims, and he invited all persons concerned to bring them forward.

Q. Did this pass on parade?

A. Yes, in the riding house at Hadington.

Q. Did he say that he would abide by the decision of the Court of Enquiry?

A. I heard no expressions to that effect, nor did I conceive the decision of a Court of Enquiry final and obligatory.

Q. Were you a member of that Court?

A. I was.

Q. Do you know if the opinion of that Court, as far as the claims might prove true, has been carried into effect?

A. There were so many under investigation, I have no knowledge whether any of them, (though some

some of them may) have been carried into effect.

Examined by Court.

Q. Was it particularly directed that the Court of Enquiry, (of which you were a member) should give an opinion on the matters laid before them?

A. I don't know that there was any particular instruction to that effect, but I conceive the assembling of the Court gave that competency.

The first instance on the prosecution of the sixth Charge is here closed, referring to his Majesty's opinion on the former General Court Martial held on Colonel Burgoyne, now before the Court.

2d INSTANCE of 6th CHARGE.

Lieutenant Jarvis called

Examined by Prosecutor.

Q. Do you know of Colonel Burgoyne's having received an official communication from his Royal Highness the Duke of York, relative to his putting the Regiment on the Irish Establishment, and where was it that you knew it?

A. In December last, (I don't recollect the day) I brought the Colonel a letter to Kearns's Hotel, from Messrs. Armit and Borough's Office, I saw it was a War-Office letter, he opened it, and to the best of my recollection he read as follows:—

“ I am directed to inform you that his Royal Highness has been pleased to comply with your
“ request,

"request, in placing the Essex Light Dragoons on the Irish Establishment."

Q. Do you know if that official communication was transmitted to the Regiment by Colonel Burgoyne?

A. I believe not, because I must have seen it as Pay-master.

Q. At the time the Colonel received this letter and read it, did you make any remark to him upon it, and what was his reply?

A. I recollect saying that I thought the Regiment would not readily accept it, and the Colonel's answering that he could not help that, we must manage it ourselves.

Q. To whom did Colonel Burgoyne then leave the command of the Regiment?

A. To Lieutenant Colonel Scudamore.

Q. Did Colonel Burgoyne join the Regiment after receiving that letter from the War-Office before he went to England?

A. He did not.

Q. Where was the Regiment then stationed?

A. At Loughlinstown Camp.

Cross-examined by Prisoner.

Q. Was this letter officially directly to Colonel Burgoyne or Officer commanding, or to Colonel Burgoyne only?

A. To the best of my recollection it was Colonel Burgoyne, or Officer commanding.

Q. Did the letter state that orders were given, or that they would be given to put the Regiment on the Irish Establishment?

A. I don't remember more than what I have before stated in my evidence.

Q. Did I not desire you to acquaint the Lieutenant Colonel with the contents of that letter?

A. Yes,

A. Yes, and I did, as far as I have stated to the Court.

Q. Did I not receive it just before I embarked for England, and after being ill at Camp?

A. Yes.

Q. Did I not say that the men had been encouraged by some of the Officers to refuse the Irish pay?

A. Not at that time, but I heard you say so since.

Q. Do you think it likely that I should designedly have suppressed an official communication from his Royal Highness the Duke of York, relative to the Regiment being put on the Irish Establishment?

A. No, because it was the only authority the Regiment could have to go upon.

Q. Do you not know that the men have been told by some of the Officers that there was no disgrace in refusing the Irish pay?

A. I don't know it.

Q. Do you not know that memorials have been drawn up by the officers for the men, against their being put on the Irish Establishment?

A. I do not.

Q. Do you not know that it has been said that they ought to be hanged and damned if they accepted it?

A. No.

Q. Did you not hear the Lieut. Col. acknowledge that he had said so?

A. I never did.

Q. Were you not at a Mrs. Smith's when I called a meeting of the Officers concerning a correspondence of Lieut. Col. Scudamore?

A. Yes.

Q. Have you not heard the Lieut. Col. say, that if

if I persuaded the men to accept the Irish pay, that he must quit the Regmt.?

A. No.

Examined by Court.

Q. When you spoke to Lieut. Col. Scudamore concerning the aforesaid letter, did you communicate the contents officially from Col. Burgoyne to him?

A. Yes, so far as Col. Burgoyne had read it to me; and I at the same time told the Lieut. Col. that I dare say he would get the order by the next post from the Col.

Examined by Prosecutor through Court.

Q. Did you mean to say that Col. Burgoyne's communication through you to the Lieut. Col. was official.

A. That is, as it may be considered.

Q. Do you attribute neglect of duty to Col. Burgoyne in not forwarding the Duke of York's letter to the Regmt., or do you imagine that the Col. had any sinister motives in so doing?

A. I think it was an omission, but I don't think he intended concealing it, for I have heard Col. Burgoyne say that he would apply to have the Regiment placed on the Irish Establishment.

It being 3 o'Clock, the Court adjourned till to-morrow at 10.

Thursday 24th October the Court met pursuant to adjournment.

Lieutenant Colonel Scudamore was called.

Examined by Prosecutor.

Q. Did you receive from Col. Burgoyne, when you commanded the Regt., an official communication

tion from the Duke of York, relative to the Regmt. being put on the Irish Establishment?

A. No ;—but I had a letter from the Col., dated from on board the Loftus packet, saying,—I can now inform you that the Regmt. is put on the Irish Establishment or is to be put on it—(without specifying from what authority it came) and desired it might be communicated to the Regmt.

Q. Did you consider that notification as official, or a sufficient authority to you?

A. Certainly not official, and of no authority at all :—I submitted it to General Needham, and the Agent, who were of the same opinion.

Q. Were there any circumstances in the Regmt. that rendered this informant communication disagreeable to you?

A. There certainly were ; when the Regmt. arrived in Ireland, and on its way to Newry where they were first quartered, they passed through Belfast, where the Lancashire Fencible Light Dragoons were quartered.—I was waited upon at Newry by I think all the Captains of the Essex Regmt., and also Major Croffe, as well as I remember, who represented to me that the men had taken an alarm in apprehension of being put on the Irish Establishment, for that they found the Lancashire were, and requested that I would take some steps, by which that circumstance might be averted.—That when they made their volunteer, they had done it with the readiest zeal to extend their services to the utmost in this country,—but that it never had been hinted to them, nor had they the smallest expectation that they should, suffer a pecuniary loss.—I must say, that I myself was in the same situation,—I mean, that I was surprised, having entertained no idea of the probability of such a change, I therefore did not hesitate to comply with the request, and wrote to his Royal Highness the Duke of York in consequence,

quence, as I then commanded the Regmt.—When Col. Burgoyne did join the Regmt. I immediately made him acquainted with the whole of the proceedings, and shewed him the copy of the letter I had written, he was pleased to approve of it in very strong terms, adding that it never was his intention, that the Regmt. should be permanent in this country,—that it came over on the spur of the occasion, and should on no account think of remaining longer in this country, than the urgencies of the period required.—Subsequent to my writing the letter to the Duke of York, a War-Office order was received by the Regmt., stating, “ That notwithstanding the Essex Light Dragoons was at this time in Ireland, that they would still be continued on the British Establishment, and receive pay as usual, and to make up their accounts as heretofore.”—This struck me, and I am confident it did the Regmt., as being virtually the answer to the letter I had written, and an acquiescence to the request of the men.

Q. You said you received an intimation from Col. Burgoyne at camp, to communicate to the men of the Regt., that they were to be put on the Irish Establishment, in what manner and words did you make that communication?

A. It was to this effect :—That I had received a letter from Col. Burgoyne, to desire that I would communicate to them the circumstance of the Regiment’s being placed on the Irish Establishment, that I would not then have a word of answer, but expected they would behave as became soldiers, and as they had always done.—I said this on parade.—I then waited on Captain Taylor, the then Secretary to the Lord Lieutenant, and to the best of my knowledge, shewed him the Colonel’s letter, and informed him of the dissatisfaction I was apprehensive of in the minds of the men, and asked him how I should proceed, as I had told the men,
that

that I would not at the time I made the first communication, have any reply.—Captain Taylor told me, if the men should be dissatisfied, and were inclined to make a decent representation, it would be proper for me to forward it, rather than that it should go through any indirect or improper channel.

I also waited on General Needham, and informed him of the conversation I had with Capt. Taylor : the General approved, and strengthened the advice I had received from Captain Taylor, and was good enough to give me a hint to take a memorandum of what I should say to the men, which were in these words :

“ I told them, That with a view to forward the wishes of the Regiment, I had waited on General Needham and Captain Taylor, who had observed to me, that every Regiment of Fencible Cavalry that had volunteered their services in this country, had likewise been well satisfied to be placed on the Irish Establishment ; that some of those Regiments had then been in the country upwards of three years, and in that time had been employed in a great deal of severe services.

“ That it would be impossible to give greater allowances to a Regmt. newly arrived, without affording just grounds of jealousy and discontent to those Regiments, and that those Officers (meaning General Needham and Captain Taylor) felt a confidence that the public spirit of the Essex Light Dragoons would induce them to be contented on the same footing with the rest of the cavalry in Ireland ;— I told them that if such was the result, I should feel great satisfaction, but if they felt themselves at all dissatisfied, and were at all inclined to draw up any decent memorial, I should feel it my duty to forward it.”

H

Q. Has

Q. Has the Duke of York's letter, which Col. Burgoyne received before he sailed, been ever since communicated to the Regmt.?

A. I know that no official communication of that date came to the Regt. and I do not know on what authority the Colonel's letter to me was founded.

Q. You have read a letter from Col. Burgoyne conveying a rebuke to you, as coming from the Duke of York, for the Regt. being paid the last month in British money:—what is the date of that letter, and how long was it before the Regmt. was actually put on the Irish Establishment, that the Col. thus wrote to you?

A. The date of that letter is the 9th Feb. last, the Regmt. was placed on the 24th May last.

Cross-examined by Prisoner.

Q. Be pleased to shew the Court the letter I wrote to you on board the *Loftus*?

A. I have it not; to the best of my belief I gave it to General Needham when I consulted with him.

Q. Are you sure that in that letter I did not inform you, that I had received a letter from the Duke of York, that the Regmt. was to be placed on the Irish Establishment?

A. I am positive it was not mentioned in that letter.

Q. Did you acknowledge to me the receipt of that letter, and acquaint me that you considered it of no authority at all, that you wished to know on what grounds I made the communication?

A. I think I did acknowledge the letter, but I did not make those remarks on it.

Q. How soon after receiving the letter did you make the communication to the Regmt.?

A. I believe it was on the very day.

Q. Did you inform me that you had made it?

A. I don't know.

Q. How

Q. How many days had the Regmt. been in Ireland before my arrival?

A. Ten days or a fortnight.

Q. You'll be pleased to shew the Court the copy of the letter you wrote the Duke of York?

A. I have it not with me at present, but will produce it

Q. When I approved of this letter, did you not inform me that a promise before leaving Ayre had been made to the men, that they should be continued on British pay?

A. No.

Q. Have not the men been told by some of the Officers, that there would be no disgrace in refusing the Irish pay?

A. I do not know that they have.

Q. Has it been said publicly that they ought to be hanged or damned if they accepted the Irish pay?

A. I have heard from you that I myself made use of that expression, but I hope I did not, as it is a vulgar expression; I rather think I might have said, under particular circumstances, that they deserved to be hanged.—It was on this ground, that after the first request, every thing had been done by myself and their Captains to obtain for them a continuance of the British pay;—that the condescension of his Royal Highness the Duke of York, and his attention to their wishes were manifest, that their representations and memorials had been received by the Lord Lieutenant, and regularly transmitted to England, and as regularly been answered;—that at the time I was supposed to have made use of the expression, I was about using my exertions to induce the Regmt. to volunteer their services to any part of Europe, and I have been given to understand that an order had been received in this country for drafting the horses and sending home the men—some Officer said to me, “had not you better try

them again to take the Irish pay," and I said, no, —I and the rest of the Officers have done all we could with them, and all we could for them, and if they have given all this trouble, and have acted on no principle, they deserve to be hanged; let it not appear that the Regmt. made use of a plea of pecuniary discontent to save them from service:—but no part of this were in presence of the men.

Examined by Court.

Q. About what time did you receive Col. Burgoyne's letter relative to the Regmt's. being placed on the Irish Establishment?

A. About the latter end of Dec. 1798, or beginning of Jan. last.

Q. Why did you not consider Col. Burgoyne's communication as official?

A. Because it did not contain the official order, or a copy thereof, or state how the information had derived.

Q. Why did you not consider the communication of a Col. of a Regmt. sufficient authority, without specifying from where his orders were received?

A. I should obey any orders of the Col. of my Regmt. relative to points in which I conceived he had authority to command; but I consider the change of Establishment from British to Irish must be solely in the breast of Government; besides, I could not act upon it, for the Agent informed me he could not draw money from the Irish Treasury, or take any other step relative to the change of Establishment, without the order of Government.

Q. Had you reason to suppose that Col. Burgoyne would have made such communication to you, unless it had been received by him from higher authority?

A. I did believe Col. Burgoyne's communication to be true, but I wanted the authority.

Q. How

Q. How soon after the approval of your letter to the Duke of York, did Col. Burgoyne apply for his Regmt. to be put on the Irish Establishment?

A. I don't know.

Q. What purpose could it answer to communicate the substance of Col. Burgoyne's letter to the Regmt. unless you considered such communication as official?

A. Because it was Col. Burgoyne's desire.

Q. As you did not consider Col. Burgoyne's communication as official, why did you not apply to General Needham and Capt. Taylor, before you acquainted the Regiment in the first instance?

A. The first thing that occurred to me was to comply with the Colonel's desire.

Q. You say you received a letter, dated 9th Feb. 1799, conveying a rebuke from his Royal Highness the Duke of York, through Col. Burgoyne,—read so much of that letter as relates to that particular point?

A. Here the Witnesses read to the Court the following extract:

"I yesterday saw a letter from the Pay-master to the Agent, in which he says, that though the Regmt. is on the Irish Establishment, it has been paid the preceding month in British money: I cannot conceive how this could be done: it certainly will not be allowed; and the Pay-master, or those who gave the order, will lose the money.—His Royal Highness on hearing it expressed much displeasure, and very properly remarked that you should have waited for an answer to the memorial, before the point was given up to the men: I fear it will not have a good effect upon them, and will encrease the difficulty in persuading them to accede to Irish pay*."

Examined

* A letter from Col. Brownrigg to Lieut. Col. Scudamore was read in Court.—[See Appendix, No. 4.]

Examined by Prisoner through Court.

Q. Have you a copy of the letter you wrote in answer to that of Col. Burgoyne's, from the Loftus packet, or can you recollect the date of it?

A. I have no copy, nor can I recollect the date of it.

Examined by Court.

Q. Did you inform the Col. of the difficulty there existed in changing the establishment, as mentioned by the Agent, or did you inform him that he ought to send you the Duke of York's letter as an authority for you to act on?

A. As to the first part, I did not; as to the other part, I have already answered, I believed I did not.

3d ITEM of the 6th CHARGE.

Cornet Ellis was called.

Examined by Prosecutor.

Q. Were you ever sent on detachment without route, out of your turn of duty, by roster, by Col. Burgoyne, and on what occasion, and how often?

A. I was, in the following instances: 1st, I was sent from Drogheda to Rathcool, I cannot recollect the time, and remained there three days; I then returned to Drogheda, the head-quarters of the Regmt. and was sent from thence to Dundalk, where I remained 4 or 5 weeks, and then returned to Drogheda; and from Drogheda I was sent to Newtown-Mount-Kennedy out of my tour of duty; and having previous to this asked the Adjutant to shew me a roster, by which I might ascertain whether I was regularly ordered on duty or not, which he said from the irregularity of duty it was difficult to keep, but that he would make out one, and shew it

it me; but I went to Mt. Kennedy without seeing it,—and from thence I wrote a letter to Lieut. Gen. Craig, representing the different places I had been ordered to, as I conceived, out of my tour of duty; and I also said in that letter that I had represented to Col. Burgoyne the inconvenience I had been put to, and moving without route, to which the Col. had replied “I have my reasons for sending you.” Some days after I saw General Craig, who acknowledged the receipt of my letter, but observed, that he had taken no notice of it as Col. Burgoyne was going to England.—After joining at Naas from Newtown-Mount-Kennedy, I was sent to Kildare, where I now am quartered.

Q. How many subalterns were there at Naas when you were sent to Kildare, that were in turn for detachment duty before you?

A. There were three.

Q. What subalterns were for detachment just before you, when you were sent to Rathcool and Dundalk, and what one when you were sent to Mt. Kennedy?

A. To the best of my recollection there were two when I was ordered to Rathcool—the same when I was ordered to Dundalk—and three when I was ordered to Mt. Kennedy.

Cross-examined by Prisoner.

Q. Are you the Surgeon's Mate, and do you hold a double commission?

A. I do.

Q. When I sent you from Drogheda and Naas, was not the Surgeon at head-quarters?

A. Yes.

Q. Did not General Craig say, as you were Surgeon's Mate and held a double commission, I had a right to send you on detachment?

A. If I recollect right, General Craig said to me, that you might send me to different quarters, and I understood

understood he meant as a professional man, but not out of my tour of duty as an Officer.

Examined by Court.

Q. Do you conceive that holding two situations, you are not to discharge the duty of them?

A. I have always conceived so, and have done both duties.

Q. How often during the period before mentioned, was the whole, or any part of the troop in which you were ordered to do duty as Cornet, detached from the head-quarters of the Regiment?

A. Several times.

Q. Was it always detached when you were?

A. The troop has been detached from the head-quarters of the Regmt. when I have remained there, and I have been detached more than once with parts of that troop, and I have also been detached with other troops.

Q. Was the Surgeon always at head-quarters, when you were on detachment?

A. Yes.

Q. Have you on those occasions which you complain of, been sent to such quarters as required your medical assistance, more particularly than at head-quarters?

A. In no instance but when I was sent to Dundalk, where there was one man of the Regmt. sick, who was attended by the Surgeon of the Suffolk Militia. I returned to Drogheda after seeing the sick man, and I reported to Col. Burgoyne, that every thing proper was done for him by the Surgeon I have mentioned. A day or two after I was ordered by the Col. with a party to relieve Cornet Daniel at Dundalk, who I understood was wanted by Col. Burgoyne for to superintend the men employed to work at the repairing of boots and saddles at head-quarters, and that I was to remain there for a short time till I should be relieved.

Q. Did

Q. Did the Surgeon ever mention that you would be of more service in your medical profession at head-quarters than on detachment?

A. I don't recollect that he has.

It being 3 o'Clock, the Court adjourned till to-morrow at 10.

Friday 25th October, the Court met pursuant to adjournment.

Cornet Ellis was called.

Examined by Court.

Q. Do you suppose that as Surgeon's Mate the Col. had not a right to send you to any quarters of the Regmt. where a man thereof wanted, or might want your assistance;—Can you give any reason why he should not at the same time take advantage of your situation as Cornet to ease the duty of other Officers?

A. I answer yes, as to the first part: as to the latter part, when I represented to the Col. the hardship of my being so frequently sent, it was not from an idea that he the Col. might not take advantage of my situation of Cornet, but because in several instances in which I was on detachment, my professional duty as Surgeon's Mate was not wanted, and had I been Cornet *only*, I should have been sent out of my regular tour of duty.

Examined by Prosecutor through Court.

Q. Have other subalterns, who are not professional men, been sent by Col. Burgoyne on detachments, without route, out of their turn of duty by roster.

A. I

A. I believe in many instances.

Q. Does not the Surgeon equally bear a double commission as you, and do you not conceive that he was to take his roster of duty as well as you in his military capacity?

A. He does bear a double commission, and is a Lieutenant, and I presume is equally liable to take his tour of duty as I am, from having in one instance being sent on detachment as I was.

Q. Have you ever been sent on detachment as a Cornet, out of your turn, when there was not sickness in the case, or any other pretence for resorting to your professional character?

A. Yes.

Captain Webster was called.

Examined by Prosecutor.

Q. In what instances to your knowledge has the roster of the Regmt., as to the regular tour of duty, been infringed upon in respect to Cornet Ellis and other Officers.

A. It appears by my roster that Cornet Ellis was sent by Colonel Burgoyne's orders to Dundalk the 25th May last out of his turn, and also out of his turn to Mount Kennedy 29th July last, I see no other instances on the face of my roster respecting other Officers: but I can't say that the roster was regularly kept, because Officers were sent by order of the Colonel, and not according to a regular roster.

Q. Was not Cornet Ellis sent out of his turn to Rathcool, and out of his turn to Kildare, besides the two instances you have already stated?

A. He went to Rathcool for two or three days while the Officer stationed there, Cornet Gregson who commanded Sir William Andrew's troop came to head quarters by the Colonel's desire, at the time

time the Colonel persuaded the men to take the Irish pay; and I now see on recurring to my roster that he went to Kildare out of his turn on the 8th instant.

Q. Was not Lieutenant Clarke at Drogheda when Cornet Ellis was sent to Rathcool, and had not Cornet Ellis at that time returned later from a detached duty than Lieutenant Clarke?

A. Yes, and he had returned later than Lieutenant Clarke.

Cross-examined by Prisoner.

Q. As you say the Officers were not sent by regular roster, but by my order, be pleased to shew the Court, the roster you allude to, and point out the instances besides Cornet Ellis of my sending Officers contrary to that regular roster?

A. The roster I have now in my hand, shews that Lieutenant Clarke was sent to Mount Kennedy 22d November last, in his regular tour, and was relieved on the 29th by Cornet Banks by a route, when it was Lieutenant Brook's turn according to roster, and Cornet Banks continued on detachment, and was removed from Mount Kennedy to Dunshaughlin.

Q. Was not your duty as Adjutant often so severe, that you were not able to attend to your duty in your troop, and did not you at such times particularly want the assistance of your Cornet, Daniel?

A. Yes.

Q. Do you know that I had additional reasons, besides the circumstance of his being Surgeon's Mate, for detaching Cornet Ellis?

A. Yes.

Examined by Court.

Q. Was it by your application that Cornet Daniel

Daniel was relieved out of his turn and brought to Head Quarters to assist you?

A. No.

Q. When Cornet Ellis was sent to Dundalk and Mount Kennedy, and Rathcool, did you mention to Colonel Burgoyne that it was not his tour of duty?

A. No.

Q. You mention that Officers were sent on detachments by order of Colonel Burgoyne, was it your invariable practice to make up your roster agreeable to the orders of the Officer commanding for the time being?

A. Yes.

Q. Is Lieutenant Brook the Regimental Surgeon?

A. Yes.

Q. Was not that sufficient reason for keeping him at head quarters, when Cornet Banks was sent to Mount Kennedy?

A. There being two of the same profession, I don't know any reason why they should not take an equal share of duty.

Q. Do you consider Colonel Burgoyne's reasons for detaching Cornet Ellis, was for the good of the service?

A. Yes.

Q. Why has there been no regular roster kept in your Regiment?

A. I have a regular roster, but it is broke into by the Commanding Officer, naming the Officers for the duty of detachments.

Q. Specify who the Commanding Officers was?

A. In two instances Lieutenant Colonel Scudamore, in another my own, and the remainder by Colonel Burgoyne.

Q. When Colonel Burgoyne wanted to send an Officer on detachment, did he ever ask you whose turn of duty it was to go?

A. I

A. I don't believe he did, but he always sent one that he considered as convenient to the Regiment.

Q. Have you received from the British and Irish Government the order for sending Officers on detachments according to a regular roster?

A. There is a standing order that Officers are to do duty by regular roster, which I had, but is now in Colonel Burgoyne's possession.

Cornet Sharpe was called.

Examined by Prosecutor.

Q. Do you know of soldiers of the Essex Regiment being furnished with articles, contrary to his Majesty's regulations, and being made to pay for them by Colonel Burgoyne?

A. I do, when I was recruiting in Essex in January last, Colonel Burgoyne furnished the recruits with ruggs, and firingles, for which Colonel Burgoyne ordered them to pay for, viz. six shillings for the ruggs, and three shillings for the firingles, which I believe are not regimental, and ought not to be charged.

Q. Have the men paid for those articles?

A. Yes.

Q. Were not those ruggs used as horse cloaths?

A. Yes.

Q. Have those men given up those articles, and have they been allowed any recompence for them?

A. They have given them up as I believe, and have not to my knowledge been allowed any thing for them.

Cross-examined by Prisoner.

Q. Do you know that I offered to take the ruggs back, and not to charge those men who returned them before they left Essex?

A. Never

A. Never to my knowledge.

Q. Have you, as the Recruiting Officer, or Captains of the troops those men belonged to, ever asked me for the ruggs, or made any complaint to me on the subject?

A. I represented to you in Essex that the men were dissatisfied in paying for the ruggs: I don't know as to the Captains of the troops since the men joined.

Q. I asked you whether you ever complained to me since the men arrived in Ireland, that they had not received the ruggs with which they were charged?

A. I did not, because I considered I had nothing more to do with them after I came to Ireland.

Examined by Court.

Q. Previous to furnishing the recruits with ruggs and firringles, were the men made acquainted with Colonel Burgoyne's intentions?

A. The men before I joined the party got those articles, and Colonel Burgoyne ordered me to charge the men with them.

Q. Name the men who complained to you, about being charged with ruggs and firringles?

A. One of the men's name is Graves, who was particularly dissatisfied, and the whole of them, when I read over what I was ordered to charge, were dissatisfied.

Q. Was the stoppage made for the aforesaid articles against their consent?

A. It was.

Examined by Prosecutor through Court.

Q. What number of recruits were charged with those articles?

A. Twelve.

Q. When did you settle with those men?

A. I

A. I settled with them to the 25th May last for their subsistence on their march.

Examined by Prisoner through Court.

Q. Did they object at the time of settlement, that this stoppage was made against them?

A. They did not on the 25th May, but having settled with them on 24th April in Essex they were then dissatisfied.

Q. Did you report their having objected, to the Commanding Officer of the Regiment when you joined?

A. No.

Q. Shew the accounts settled with the men to 24th April?

[Here the Evidence produced the book with the recruiting account of his party.]

Q. Were the rugs provided the men, in place of saddle cloths?

A. I don't recollect.

Examined by Judge Advocate.

Q. Had the men then saddle cloths?

A. They had not.

Q. Did the men who complained of paying for the rugs and firringles, sign their accounts 24th April, or 25th May?

A. The 24th April.

Examined by Court.

Q. Why did not you communicate the dissatisfaction of the men to the Commanding Officer on your joining the Regiment with those recruits, and who was then the Commanding Officer?

A. Colonel Burgoyne was then the Commanding Officer, who knew it already.

Captain

Captain Bund was called.

Examined by Prosecutor.

Q. Did not Colonel Burgoyne furnish all the recruits of the augmentation to the number of between 60 and 70 men with ticken saddle-bags, that were not according to regulation?

A. Ten or twelve of that number came to my troop who were furnished with that article.

Q. Did Colonel Burgoyne make those men pay for them, and how much?

A. He did, and I think it was five shillings each.

Q. Did you hear Lieutenant Colonel Scudamore tell Colonel Burgoyne that it was running the men to useless expence, as they would not last above one march, and that they must be afterward supplied with Regimental ones?

Admitted by Colonel Burgoyne.

Q. Did you hear Major General Needham make any remarks to Colonel Burgoyne on the saddle bags?

A. I never did.

Q. How long did those saddle bags serve the men?

A. They were furnished the men in Loughlinstown Camp, I left it in February, and when I joined the Regiment (in three months after returning from leave of absence) the men had got Regimental ones.

Q. Did Colonel Burgoyne order your troop to be furnished with blue pantaloons, contrary to the King's regulation?

A. He did.

Q. Did he make the men pay for them, and how much?

A. Yes,

A. Yes, twelve shillings and eight pence British each.

Q. Were your troop contented to take them?

A. They were not.

Q. Did these extra charges for extra articles run the men in debt?

A. Yes, considerably.

Q. Was there any other troop discontented to take those articles besides yours?

A. Yes, Sir William Andre's.

Cross-examined by Prisoner.

Q. Were they over-alls or pantaloons?

A. I have heard them called both, but those buttoned from top to bottom.

Q. Could I have any pecuniary interest in giving out those temporary saddle-bags, or ordering those blue over-alls?

A. No.

Q. What did those new regimental bags, to which you allude, for your troop cost, and who bought them?

A. To the best of my knowledge they cost eighteen shillings. Lieutenant Clarke of my troop, who is also clerk to the troop, purchased them, and the men told me they were perfectly well satisfied with the purchase.

Q. Did any of the men object to take those over-alls, until they were absolutely made up?

A. I believe the over-alls were made up, but the men of my troop were never asked whether they would have them or not.

Q. Did not General Needham direct that the men should take the over-alls, and did not this appear on the orderly book?

A. I think I recollect seeing an order in the orderly book, in the Colonel's hand writing, signifying that Major General Needham had ordered the

men to take them; and General Needham told me in presence of the Colonel that he thought it better, as the things were ordered, that the men should take them for that time.

Examined by Court.

Q. Did the men of your troop object to their paying for the ticken saddle-bags?

A. I, as Captain of the troop objected to it, but the men settled for them while I was absent in England.

Q. In what respect are you aggrieved by the men being charged with those saddle-bags?

A. In nothing but the men being charged with an article they have no right to pay for; it is no pecuniary loss to me, as Lieutenant Clarke pays the troop, and takes all the debts upon himself.

Q. When the recruits attached to your troop were obliged to pay for saddle-bags a second time, did they represent to you, or any Officer to your knowledge, that they considered the expences unnecessary to which they had been put in the first instance?

A. They never did to me as I was absent in England at the time, and Lieutenant Clarke, on my return did not mention it to me.

Examined by Prisoner through Court.

Q. Were not these over-alls a great comfort to the men in camp, during a very severe winter?

A. I don't think the comfort equal to the expence.

Examined by Court.

Q. Are not the men obliged to find trowsers for stable duty?

A. Yes.

Q. What ought the soldiers to be charged for those

those trowlers, according to the regulations of Government ?

A. I think about four shillings.

Q. Were the over-alls about which you have given your evidence a substitute for trowlers ?

A. They were not, the men were obliged to have both, and they were ordered not to use the over-alls at stables.

Cornet Gregson was called.

Examined by Prosecutor.

Q. What were the men of Captain Sir William Andre's troop charged by order of Colonel Burgoyne for ticken saddle-bags ordered by him for them ?

A. I believe it was five or five and six-pence.

Q. What were the same men afterwards charged by order of the Colonel for the new and second hand saddle-bags brought down by him to Drogheda to be furnished in lieu of those ticken saddle-bags ?

A. The Quarter-master of the troop who was in it previous to my being clerk of the troop at Loughlinstown camp, furnished (I don't think new ones) but second hand ones ;—the men were charged various prices which I can't ascertain, some were seven and some were eight shillings a piece. I know nothing of Colonel Burgoyne's furnishing any at Drogheda.

Q. Were the men of that troop run in debt in consequence of those two supplies of saddle-bags ?

A. Some of them viz. ; those who had not money coming to them to pay for them.

Examined by Court.

Q. Were those second hand saddle-bags good and sufficient for service ?

12

A. They

A. They were, all but one pair, which the Col. said he must get a new pair, but I had that one repaired, and they have since answered the purpose.

Q. When the men of Sir William André's troop were obliged to pay for saddle bags a second time, did they express any dissatisfaction?

A. I heard them say, that they thought it very hard, they should have to pay for the ticken ones, and the leather ones too.

It being 3 o'Clock, the Court adjourned till to-morrow at 10.

Saturday the 26th October the Court met pursuant to adjournment.

Cornet Daniel was called.

Examined by Prosecutor.

Q. What were you ordered by Colonel Burgoyne to charge the men with for the leather saddle-bags, the men got in lieu of the ticken ones at Drogheda?

A. There were two sorts, new ones and second hand ones—the former 14s. 6d. British and the latter 7s. British.

Q. Did you so charge all the troops that got those articles?

A. Yes.

Q. Did the troop you belong to, run in debt in consequence thereof?

A. I don't conceive they did, 'because the first they got was five shillings and the other seven shillings, making twelve shillings each man in all.

The

The second hand ones were nearly as good as new ones for the men.

Q. What did saddle-bags cost to such men as got both ticken ones, and new leather ones?

A. Each of such men paid nineteen shillings and six-pence.

Q. Did you ever know Colonel Burgoyne make his soldiers pay for gloves, which by his Majesty's regulations ought to have been given to them gratis?

A. No.

Q. Could you not have supplied Captain Bund's troop in the same manner as you did your own, if he had not preferred taking saddle-bags of Mr. Gibson for which his men were charged 16s. and 6d. British?

A. I suppose I could.

Cross-examined by Prisoner.

Q. Had not the men their choice whether they would have the new, or the second hand bags, and did I not mention it in orders?

A. I believe it was mentioned in orders, and the clerks of the troops had their choice.

Q. How many of the second hand saddle-bags have you now in store?

A. Three pair.

Q. How many new ones have you in store?

A. Three.

Examined by Court.

Q. Were the men furnished with canvas saddle-bags to give time to collect the second hand saddle-bags?

A. Yes, I believe that was the intent.

Q. What was the reason that part of the Regiment were furnished with new leather saddle-bags?

A. For those men that choose to have them instead of others.

Examined

Examined by Prosecutor through Court.

Q. Were those second hand saddle-bags sufficient for every man, if every man had choosed them that wanted them?

A. I believe not.

Q. Could not the men have been equally supplied at once by Mr. Gibson the Sadler in Dublin, with new leather saddle-bags, equally good, and thereby save the expence of the temporary ones?

A. I suppose they could.

Examined by Court.

Q. Do you think you could have got second hand leather saddle-bags for the whole Regiment before the canvas saddle-bags furnished were worn out?

A. I can't say, as I did not try; we only wanted for 66 men for the augmentation, the first establishment had been before provided, but I can't say.

Examined by Prisoner through Court.

Q. Which bags do you think will wear the best, the British or the Irish, and which do you think is the best leather?

A. The British.

4th INSTANCE of the 6th CHARGE.

Quarter-master Canham Sworn.

Examined by Prosecutor.

Q. Are you a Quarter-master in the Essex Regiment?

A. I am.

Q. Were

Q Were you ever confined by order of Colonel Burgoyne, and in what manner and for what charge?

A. I was, at Loughlinstown Camp in the common guard-house with the common prisoners in the latter end of November last, for not having returned to the camp at the time ordered; there were three Quarter-masters and myself had been sent to Dublin on regimental business in the morning, and we were directed to be back by five which we could not effect till eleven.

Q Was there a written crime given against you?

A. There was not.

Q Were you not marched up the next morning by men with fixed bayonets, (in company with a private going to be flogged) and reprimanded by the Colonel at the head of the Regiment without trial?

A. I was.

Cross-examined by Prisoner.

Q Did I offer you a Court Martial?

A. You did.

Q Were you satisfied in my condescension in accepting an apology from you?

A. Yes.

Examined by Court.

Q How long were you going from Loughlinstown to Dublin, and what is the distance?

A. An hour and an half, and it is about eight miles distance.

Q Could you not have been back before retreat beating, if you had not delayed unnecessarily?

A. We could not, as we had so much regimental business to do.

Q Was that business very urgent?

A. We considered so, as we had positive orders from the Colonel to get several articles to equip the men of the augmentation.

Examined

Examined by Court.

Q. Did you ever apply for permission to remain beyond 5 o'Clock, in case you could not get your business finished by that hour?

A. No.

Q. Did you yourself consider your orders for returning positive or discretionary?

A. I considered that we were not to return until we got our business done.

[The prosecution of the sixth Charge being closed, the Court proceeded to the seventh Charge, and called upon Quarter-master Hawkins of the Essex Light Dragoons, in support of said charge.]

VII. CHARGE.

Quarter-master Hawkins was Sworn.

Examined by Prosecutor.

Q. Are you a Quarter-master in the Essex Light Dragoons, and how long have you been so?

A. I am, since the 25th March 1796.

Q. Does Colonel Burgoyne owe you any money and how much?

A. He does between 40/. and 50/. on account of the Regiment.

Q. Does he owe you any on any other account?

A. No.

Q. How much did he owe you when the Regiment was leaving Dundalk?

A. The same that he owes me now, and about 6/. besides if the private account had been properly settled.

Q. Explain what you mean by the account not being properly settled?

A. An

A. On account of my books having gone forward, with the baggage from Dundalk to Navan.

Q. Relate the particulars of that transaction at Dundalk?

A. Not being able to make good some payments to some of the men of Colonel Burgoyne's troop, the Col. insisted after complaint had been made to him on this head, that I should come and make a general settlement with him, which I could not do as I had not my books, I made out an account to the best of my recollection, by which it appeared I was in debt 28*l.* 2*s.* 6*d.* If I had had my books, as afterwards appeared at Drogheda, I should have had a credit of 5*l.* 16*s.* 9*d.* British, in consequence of which I was obliged to leave my horse at Dundalk for a debt of about 5*l.* 14*s.* Irish.

Q. What was the value of that horse, and what has become of him?

A. About 25 guineas, and he still remains there as a pledge for that debt, and in July last, when I saw him he was not worth more than five guineas, and at that time there was a charge against me for his keeping of 28*l.* Irish, I have been threatened to be arrested by an attorney.

Q. Did Colonel Burgoyne sign or acquiesce in the rectified account at Drogheda by which he appeared your debtor 5*l.* 16*s.* 9*d.* at the time you left Dundalk?

A. Yes, and he paid me a balance on a further account incurred by stoppages which on this settlement came to 8*l.* 14*s.* British.

Q. How long after you left your horse at Dundalk did the Col. settle with you at Drogheda?

A. About 8 months.

Q. At the time of the settlement at Drogheda, how much did you owe for the keeping of your horse?

A. About 28*l.*

Q. Was

Q. Was the horse your own property, and what did you give for him?

A. Yes, and he cost about 29 guineas.

Q. In the eight months between your leaving your horse at Dundalk, and Col. Burgoyne's settling with you at Drogheda, did you ever apply to him for the 5*l.* 16*s.* 9*d.*

A. The Colonel gave an order in July last at Drogheda, for all accounts to be brought to him, I then produced mine.

Q. In what sum was Col. Burgoyne indebted to you upon regimental account when you left your horse at Dundalk?

A. 46*l.* 18*s.* 5½*d.* British, I had a further claim of 1*l.* 4*s.* British, for three jackets struck off my private account.

Q. Did you apply to him for the payment of that 46*l.* 18*s.* 5½*d.* on the Regiments account after you left Dundalk, and before you settled the private account at Drogheda?

A. Yes, I laid the account before General Needham at Loughlinstown Camp.

Q. Was the account settled from your memory at Dundalk, your private account with the Colonel, or a regimental account?

A. My private account.

Q. Did General Needham give any order in consequence of your complaint?

A. Yes, he gave orders to the Colonel to see me paid.

Q. Has the Col. ever since paid you, or ordered you to be paid?

A. No.

Q. How long is it since General Needham gave those orders?

A. About the middle of last winter.

Q. When General Needham gave these orders, how long had your horse been in pledge?

A. About

A. About six weeks.

Q. Was the order of General Needham before Colonel Burgoyne went to England in December last?

A. Yes, and Col. Burgoyne was present.

Q. How long was your horse in pledge when Col. Burgoyne came to the knowledge of owing you a considerable sum, more than sufficient to release him?

A. About six weeks.

Q. Had the Col. paid you in consequence of General Needham's orders, could you have released your horse, and have you ever since been able to do so?

A. I could have then released him, and I have not since been able to do so.

Q. Did the Col. know that you left your horse in pledge at Dundalk?

A. I wrote I think the day after to Colonel Burgoyne to Dundalk, or Loughlinstown Camp, and acquainted the Commanding Officer Captain Webster at Dundalk with it.

Q. In what manner were you obliged to travel after the Regmt.?

A. In a post-chaise with my wife, from the inn where my horse was left.

Q. Have you ever shewed Colonel Burgoyne the regimental account upon which he owes you 46*l.* odd, when did you do so, and did he make any figures upon it?

A. When I had shewed it to him in Drogheda, it was 41*l.* 16*s.* 11*d.* the Col. made remarks in his own hand writing of what he had paid me on account of that bill, and an indorsement in these words—"Delivered June 1799," and an item in the account of 1*l.* 12*s.* 8*d.* paid by Col.

This account produced to the Court.

Q. How

Q. How long before he made those remarks in his hand writing, was he aware of the debt existing?

A. About eight months.

Q. How long has that account been accruing, and did you ever apply to the Col. for it when it was a smaller sum, and how often have you applied for it?

A. Since the year 1796, I applied to him frequently, when it was from 3 to 12/. and as the sums became due, and either applied to the Col. or the Pay-master (to whom he referred me) and some times to Captain Webster.

Q. What answer did you receive to such application?

A. When I applied for small demands within the sums mentioned in my former answer, the Colonel told me he could not pay me, and referred me to the Pay-master, or Captain Webster; still the demands remained unpaid, and this encreased the account.

Q. Was you then Quarter-master and Clerk to Colonel Burgoyne's troop, when those items accrued?

A. I was.

Q. Did General Needham order the Pay-master to pay you twelve guineas on account of the Colonel, and did he pay you, and what answer did he give to your application?

A. On my making a second application to General Needham, that I had not been settled with, he ordered the Pay-master to give me, I think, twelve guineas on account; this was in the absence of the Colonel, and the Pay-master said he could do no such thing, as he had no money of the Colonel's in his hands.

Q. Has the Colonel kept you on stoppages notwithstanding his debt to you, and what stoppages, and how long?

A. I

A. I have been under stoppages ever since November 1797, between 3 and 4*l.* a month, for being in debt to the Colonel for necessaries that I had from the Colonel's stores for the men.

Q. Is it not customary for Quarter-masters that are clerks of troops to furnish the men with necessaries?

A. Yes.

Q. Did Colonel Burgoyne purchase those necessaries and make you take them; what was the first amount the Colonel laid upon you, and is it for that, your stoppages were made?

A. Yes, one was for a transfer of a demand for Captain Webster 80*l.* 3*s.* 7½*d.* British for necessaries in store, which I was obliged to take when I joined as Quarter-master and Clerk, and the next was a bill for necessaries 28*l.* 9*s.* 7½*d.* transferred by Lieutenant Jarvis for the like account, and it was by these I came in debt, and for which the stoppages were made.

Q. Who is accountable for the troop debt, the Captain of his troop, or his Clerk?

A. The Captain.

Q. Was not Colonel Burgoyne the Captain of the troop to which you were Clerk?

A. The Colonel is.

Q. Has Colonel Burgoyne by himself, or any other person, lately offered to pay you this debt on the regimental account, that you before stated to the Court, and how lately, and what are the particulars of the transactions?

A. On Thursday night, and yesterday morning, John Payne the Colonel's servant called on me, and told me, the Colonel would pay me my account, if he, or his brother the Quarter-master would say the account was right, and Payne desired me not produce my papers to the Court, and he desired me to acknowledge that I was in fault, and had been misled.

Q. Did

Q. Did Payne shew you at the same time, any papers in the hand writing of the Colonel on the subject?

A. Yes, and to the best of my recollection it was nearly in the following words, which I took down from the paper which Payne had in the Colonel's hand writing, and which Payne said he was not to give me.

“ Q. 1st. What induced you to complain of your account in this public manner?

“ 2d. Have my conduct been arbitrary or kind to you?

“ 3d. Would you have complained without been instigated, and by whom?

“ Quarter-master Hawkins; I do not mean to put you in a disagreeable situation in regard to your Captain, and I shall not ask you any more questions on the subject.

“ I hope you have still that confidence in my justice and probity, whatever part of your demand I shall in reason think right, shall be paid to you.”

Q. For what purpose did you understand from Payne those questions in that paper were shewn to you?

A. I conceive it was to induce me to say what was not right, as he begged me in particular not to produce my papers in Court, but say I had mislaid them, and to say if I was asked about my confinement, to acknowledge I was in fault.

Q. Upon your oath did you understand from Payne, that his communication with you, and his shewing you that paper in the Colonel's hand writing, was intended to guide and influence your testimony before this Court?

A. I

A. I understand that it was to withdraw me from producing my account in Court, as the Colonel would settle with me, in the course of two or three days; and that if I was to come, to say that I was persuaded, and to acknowledge myself in fault.

Q. Was it since this Court Martial was threatened that the Colonel settled his private account with you at Drogheda?

A. It was.

Q. How long before you came to the second settlement, namely, the settlement at Drogheda, had you made the Colonel acquainted with the errors, on the first settlement of the private account at Dundalk?

A. In July last in Drogheda.

Q. How long was Colonel Burgoyne absent from the Regiment before you settled the account at Drogheda?

A. I believe about five months.

Q. Did you apply to the Prosecutors to seek redress for you by bringing your business forward, or did they apply to you for that purpose?

A. I applied to them.

Cross-examined by Prisoner.

Q. From whom did you understand that I wished to influence your testimony?

A. I can't say you wished to do it, more than from the conversation I had with John Payne.

Q. When had you this conversation with John Payne?

A. Thursday night, and yesterday morning.

Q. Did you not desire Quarter-master Payne to say to me that you had no evil disposition towards me, and that you hoped on examining your regimental account, I should find that it was your due?

A. I

A. I had no conversation with Quarter-master Payne on the subject till this morning.

Q. Did you not make the declaration mentioned in my last question to John Payne before he called on you, on Thursday night, and Friday morning?

A. I don't recollect that I did.

Q. On your oath did you desire John Payne to speak to me on that subject?

A. I did not before Thursday.

Q. Did you desire Quarter-master Payne to speak to me on the subject before Thursday night?

A. I did not.

Q. Were you not confined for debt by the civil power, and were you not ordered under arrest by me for embezzling the troops money?

A. I never was arrested, but was threatened to be arrested about my horse; I was accused and put under arrest for the latter part, because I could not pay for some horses quarters, and other bills at Newry which was owing, the balance of my accounts not been paid me.

Q. Did I not desire you some days ago in the presence of Pay-master Jarvis, and since I know you would be called as a witness, to send your vouchers, and then tell you that I would enquire into your accounts?

A. I believe about the 4th of this month, at Naas, when I spoke of my account to you, you first denied my having any, and saying that you never saw it.—(this was in the presence of Cornet Daniel) you then sent me for the Pay-master, and then you said you understood that I had a vague account of baggage, and desired me to send my account next morning to the Pay-master which I did, and on the 10th instant, received a note from the Pay-master, desiring me to send my vouchers.

Q. Did.

Q. Did you send the vouchers so required?

A. I did not.

Q. How could you say that I never saw the account, when it there appears that I had marked and paid you an article in that account, which the Court of Enquiry at Hadington had said I had no right to pay?

A. I don't know why, but you absolutely denied having seen it.

Q. Did you not owe above 6*l.* subsistence to a private in my troop, which was not paid until about two months ago?

A. I did; but I was kept under stoppages from Loughlinstown Camp for the payment of that, and other debts.

Q. Did not your regimental debts amount to more than the whole of your demands, even had they been all allowed?

A. I can't immediately say, but I believe it was thereabouts; had I been paid what General Needham ordered, I should have been out of debt, and have been in receipt of my full pay.

Q. At what time would you have been out of debt?

A. I can't say.

Q. Did you not conceive that the greatest part of your demand on the regimental account was due before the Court of Enquiry sat at Hadington in December 1797?

A. Not the greatest part, I can tell by my books.

Q. Why did you not make a demand of what was due to you, at the time the Court of Enquiry was held at Hadington?

A. As I was clerk of your troop, I did not prefer any claims except the 1*l.* 12*s.* 8*d.* as it was a matter of doubt who it belonged to.

K

Q. Did

Q Did I not desire that the Court might be held to receive all claims, and was it not so understood by you and the Regiment?

A. Yes; but I did not prefer the rest of mine, for the reasons already mentioned.

Q Did not General Needham say that I shewed you great indulgence in not bringing you to a General Court Martial for being accused of embezzling the troop's money.

A. When he first saw the accusation against me, he said so, but on seeing my accounts, he found I was not so much in debt as I was said to be.

Q Did General Needham examine every article of the account, or discuss it with me, or did he generally desire your accounts to be settled?

A. He did not examine every article, he looked over two or three of them, and then desired that my bill might be paid; it was not then cast up in the book.

Q After settling and signing your account at Dundalk, had I not reason to imagine that you owed me a balance at that time of 28*l.* 2*s.* 6½*d*?

A. I don't know what you thought at the time, but I said I could not make out an exact account, as I had not my memorandum and books with me, and you struck out articles that you afterwards allowed me.

It being 3 o'Clock, the Court adjourned till Monday next at 11 o'Clock.

Monday

Monday the 28th October, the Court met pursuant to Adjournment.

Quarter-master Hawkins was called.

Examined by Prisoner.

Q Is this the account we adjusted at Dundalk, signed by you and me?

A. It is.

This account is produced to the Court, by which it appears the balance due the Colonel as then settled was 28*l.* 2*s.* 6½*d.*

Q As you say that John Payne wished you to conceal your papers, lay them before the Court, and point out any article you think I could wish to conceal?

A. There is not any article that need be concealed.

Q Could I have any advantage in your concealing your papers?

A. I don't know.

Q Did you not receive most of the necessaries from the troop stores left by the clerk who preceded you, and for the accommodation of Captain Webster?

A. I did, but they were settled for in account between you and me.

Q Do you imagine that I have any pecuniary profit directly or indirectly in the necessaries?

A. I don't know.

Q Did I not tell you that you might return any thing you could not issue to the men?

A. Yes, last winter at Loughlinstown Camp.

Q Did I not tell you so before last year?

A. Yes, about some short gaiters that got out of use.

Q I do not speak of one or two articles, but did I not tell you generally, that you might return

whatever you could not issue long before Loughlinstown Camp?

A. Not in general, but about gaiters and other small articles.

Q. What did you owe me in July 1796, what in December 1796, what in August 1797, what in November 1797, what in June 1798, what in November 1798?

A. 73*l.* 6*s.* 1*d.* in July 1796.—36*l.* 5*s.* 4*d.* in December 1796.—33*l.* 7*s.* 11*d.* in August 1797.—I have not the account in November 1797 balanced, but you told me at Naas of your own accord, that there was a mistake against myself which you would shew the Court; there was 27*l.* 1*s.* 2½*d.* in June 1798, and 28*l.* 2*s.* 6½*d.* in November 1798.

Q. When were you first put under stoppages?

A. In November 1797.

Q. Did you not thank me for my indulgence in permitting you to remain so long in my debt before you were put under stoppages?

A. Yes, as you told me I was in danger of losing my warrant, being so much in debt.

Q. What did your regimental debts amount to on the 1st December 1798?

A. I can't particularly say, the account is lodged with the Pay-master.

Q. Did it amount to near 70*l.*?

A. I think it could not amount to that by a good deal.

Q. What did your demand on the regimental account then amount to?

A. 46*l.* 18*s.* 5½*d.* British.

Q. If you had received your whole demand, could you have recovered your horse, and paid your regimental debts?

A. I lost my horse in November, and my accounts were not adjusted till December; had the private

private account between you and me been properly settled at Dundalk, to the 9th November 1798, I should have credit enough to release my horse, but I don't think I should have sufficient to pay my regimental debts; part of it was for Lieutenant Colonel Scudamore's troop, which I understood from him he would not press me for.

Q. From the month of December 1798, to 1st August last, did you ever ask me to settle the regimental accounts?

A. No, as you soon after went to England.

Q. Was I not constantly with the Regiment from the middle of May last, till 1st August?

A. I believe you were.

Q. As you have said that you did not make your demand to the Court of Enquiry, because you had at that time an account open with me; inform me why you applied to the Court for 1*l.* 12*s.* 8*d.* for stores lost; and 3*l.* 11*s.* 6*d.* overpaid for baggage when your whole demand amounted to 29*l.* 8*s.*?

A. Because I have already said it was a matter of doubt who it belonged to.

Q. Did I not refuse the payment of the baggage account before the Court of Enquiry sat?

A. You did not absolutely refuse it, but referred me to the Pay-master and Adjutant, and to the married men whose boxes were carried.

It appears on looking at the accounts that Quarter-master Hawkins made a mistake against himself of 23*l.* 17*s.* British, as told the evidence by the Colonel, in answer to a former question.

Examined by Court.

Q. Where does it appear that you have been credited with what the Colonel promised to mention to the Court, you had charged against yourself?

A. We

A. We have made up no account since he told me of it.

Q. But were there no intermediate accounts between that one in which the mistake was, and the conversation at Naas?

A. There were.

Q. Did you purchase your warrant, and what did you give for it?

A. Yes, my uncle purchased it and paid 200*l*.

Q. To whom was the money paid and when?

A. To the Colonel or his agent, in 1796.

Q. Were warrants allowed to be sold at that time?

A. I don't know.

Q. Do you know if there ever were orders issued by Government against selling warrants?

A. Yes, but I did not hear of it till we were quartered at Hadington in 1797.

Q. From that order do you conceive you had a right to receive back the money that was paid for your warrant?

A. I have heard said so, but not having seen the order, I can't speak from myself, my warrant is dated 25th March 1796.

Q. Suppose the money had been returned, would you not have been completely out of all regimental debt, and a balance due you?

A. Yes.

Q. At the different settlements had you necessities in store to the amount of debts or nearly so, or had you disposed of the necessities and not accounted the price for them?

A. I had nearly to that amount in July 1796; in December 1796, I had also as much, including what I had transferred to other troops and had not been paid for. In August 1797, I had about 25*l*. worth in stores; in November 1797, I had about 25*l*. worth in store; my debt appeared at that time 69*l*. 2*s*. 6*d*. but having made a mistake of 23*l*. 17*s*. against

against myself, the balance against me was only 45*l.* 5*s.* 6*d.*; in June 1798, I had about 16*l.* worth in store. The Court will still recur to the mistake in November 1797, against myself. In November 1798, I had between 6 and 7*l.* worth in store; the Court still recurring to the mistake against myself of 23*l.* 17*s.* in November 1797.

Q. Properly speaking, were you not at all the different settlements only in debt to the amount of what you had disposed of, and not accounted for, instead of for the total of necessaries furnished you by the Colonel?

A. I should think myself entitled to take credit for the value of the necessaries in store, but I did not do so at the different settlements.

Q. At the last settlement you made with Colonel Burgoyne, if you had taken credit for the value of the necessaries in store, and the amount of stoppages you paid, how would the account stand between you?

A. When I had last settled at Drogheda, the balance then stood in my favour of 14*l.* 16*s.* 5*d.*

Q. What does Colonel Burgoyne now owe you?

	<i>l.</i>	<i>s.</i>	<i>d.</i>
A. On regimental account	46	18	5½
Mistake in account of Nov. 1797	23	17	0
Making in the whole	70	15	5½

Q. Do you mean to say that Colonel Burgoyne is 70*l.* 15*s.* 5½*d.* in your debt?

A. Yes; though the Colonel disputes some part of it.

Q. Are the different accounts of which you have been speaking all the ingredients of that private account wrongly settled at Dundalk, and is the 46*l.* 18*s.* 5½*d.* totally distinct, and a regimental one?

A. It was the private account which was wrong settled

settled at Dundalk, and rectified at Drogheda, and which includes all the dated accounts as mentioned in my evidence, and the 46*l.* 18*s.* 5½*d.* is totally distinct, and is a regimental one.

Q. Is the 46*l.* 18*s.* 5½*d.* which you say Colonel Burgoyne has disputed, the account which John Payne offered lately to pay you in the Col's. name?

A. Yes, he said he would pay me my demand.

Q. Though you did not think it necessary to lay your accounts before the Court of Enquiry at Haddington, did you ever, when a difficulty arose concerning the settlement, apply to Colonel Burgoyne or any Officer of the Regiment for a Court to which the investigation of your accounts might have been referred?

A. I did not apply for a Court, but I often complained to the Colonel and the Pay-master.

Q. As you were aware of a difficulty in the settlement of a regimental account, and never applied to Colonel Burgoyne or any Officer for a Court to investigate your accounts, was it not your own fault that your horse was left in pledge at Dundalk, as you made yourself debtor to the Colonel in the private account drawn up from memory?

A. The Colonel obliged me to draw up that private account and sign it, though I told him I had not my books, and I was confined to the barracks till I did it.

Q. Were you put under stoppages for necessaries by your own consent, or by order of your Colonel or a Military Court?

A. By my own consent after the Colonel's telling me I should loose my warrant if I did not pay my debt.

Q. Did you understand that John Payne on his own authority desired you not to produce your papers to this Court?

A. I don't

A. I don't know on whose authority, but he told me he came from the Colonel to inform me my demand would be paid me, whatever his brother and him should say was right.

Examined by Prosecutor through Court.

Q. Were you not confined to the barracks, because you could not account for the new accoutrements, which you did not account for, and for some of which you have not accounted for to this day?

A. I was confined on that accusation and about my accounts likewise.

Q. Did the amount of the stoppages for necessaries for any one year, amount to more than what you received for the sale of the necessaries?

A. Yes; but by those stoppages I paid faster for the necessaries than I got value for them from the men.

Q. How long before the trial did the Colonel inform you of the mistake against yourself, in the account in November 1797?

A. About a week or ten days ago.

Brigade-Major Needham Sworn.

Examined by Prosecutor.

Q. Were you Brigade-Major at Loughlinstown Camp?

A. I was.

Q. Do you know of any order there given by Major General Needham relative to Quarter-master Hawkins?

A. I remember General Needham's ordering Col. Burgoyne to pay Quarter-master Hawkins immediately, the amount of some charges as stated by him the Quarter-master in his account.

Cross-

Cross-examined by Prisoner.

Q. Did General Needham desire the whole of Quarter-master Hawkins's demand to be paid, or did he desire his demand to be investigated and settled?

A. Those charges that General Needham saw in the book were for payment for hire of cars and store-room, he ordered to be paid immediately, but I don't recollect he ordered the Quarter-master's account to be investigated.

Q. What were the amount of those charges?

A. I don't recollect the amount.

Q. Do you know nearly the amount of them?

A. I never saw the amount total of the account, but I know on the General's reading of the items he said they ought to have been paid long ago.

Q. Did General Needham ask you my reasons for not paying those charges, and did he hear my reasons?

A. I don't recollect any conversation on the subject.

Lieutenant Jarvis was called.

Examined by Prosecutor.

Q. Was a letter conveyed to you from the Commanding Officer of the Regiment, after Colonel Burgoyne left Loughlinstown Camp for England, with an order from General Needham to pay Quarter-master Hawkins twelve guineas, and did you pay him, and if you did not, why did you not do so?

A. Yes, from Brigade-Major Needham, dated the 21st April last, which letter is produced to the Court, and which is annexed to the proceedings, and proved in Court. [See Appendix, No. 5.] I waited on General Needham and told him that I could not advance any money to Quarter-master Hawkins

Hawkins on that account, as I knew the Colonel would not allow me it, he the Colonel having made objections to the charges.

Q. Were you present at Naas, when Colonel Burgoyne told Hawkins that he had never seen the regimental account, and was this after the Regiment left Loughlinstown Camp, and how long?

A. Yes, some little time ago, at Naas, and since we left Loughlinstown Camp, which was the 21st April last.

Q. Is the account now shewn you, Hawkins's regimental account?

A. Yes, I have seen the account before.

Cross-examined by Prisoner.

Q. Were you not present at Drogheda when I paid Quarter-master Hawkins an article in this account?

A. Yes.

Q. How much has been paid to liquidate Quarter-master Hawkins's regimental debts, since General Needham saw his accounts at Loughlinstown Camp?

A. 37*l.* 6*s.* 8*d.* British paid to me.

Q. What is the annual allowance for carriage of ammunition?

A. 10*l.*

2d INSTANCE of the 7th CHARGE

Cornet Gregson was called.

Examined by Prosecutor.

Q. Did Col. Burgoyne ever say and when, any thing to you about your sword belt, and what was it?

A. I

A. I was standing in the barrack yard at Drogheda, I had got a pair of new slings to my sword belt; Colonel Burgoyne asked me if it was not a piece of his buff, I said it was not, for I got it in Dublin—he then asked Cornet Daniel who had the care of the Colonel's stores if it was so; he then went into the store with Cornet Daniel.

It being 3 o'Clock, the Court adjourned till to-morrow at 10.

Tuesday 29th October, the Court met pursuant to adjournment.

Cornet Daniel was called.

Examined by Prosecutor.

Q. Were you present at Drogheda when Colonel Burgoyne taxed Cornet Gregson about his sword belt, and what passed?

A. Yes, the Colonel saw Cornet Gregson with a new piece of buff as slings to his sword belt, and the Colonel asked him if it was not a piece of his buff; the Cornet replied no, and the Colonel turned to me and said is it not Mr. Daniel.

Q. Did not you immediately after this go into Colonel Burgoyne's stores with him, if so, relate what passed on the occasion?

A. Yes, it was in the work-room where the saddlers and shoemakers were working; there was part of a hide of buff they were cutting up for slings, and the Colonel ordered what had been cut off to be laid down to see if all the buff was there; he found it all right, and I heard no more about it.

Q. Did

Q. Did the Colonel measure the buff himself, and for what purpose did he get the buff laid down and measured?

A. I don't recollect that he measured it himself, but he was by when it was done; but he did not tell me for what purpose it was done.

Q. Was it instantly after taxing Cornet Gregson that he went into the stores to have it measured?

A. I have said so already.

Q. Did Col. Burgoyne insinuate a suspicion to you, for having suffered his buff to be taken away by Cornet Gregson?

A. He did not.

Cross-examined by Prisoner.

Q. Was it in a joking manner I said to Cornet Gregson, that he had a bit of my buff?

A. Yes, I thought it was a joke.

Q. Have I not often thanked you for the care you have taken of the stores, and declared myself perfectly satisfied with your exactness and attention?

A. Yes.

Examined by Court.

Q. Did the Colonel go into the stores for the express purpose of examining whether Cornet Gregson had purloined a piece of his buff, or to see what the work people were about?

A. I can't say.

Q. When the conversation took place in your presence between the Colonel and Cornet Gregson, did you conclude that the Colonel from his manner really suspected Cornet Gregson?

A. I thought it was a joke.

Q. When Colonel Burgoyne went immediately into the stores, and had the buff measured, did you then

then consider his accusation of Cornet Gregson as altogether jocular?

A. No, I did not.

Q. Was Colonel Burgoyne in the habit of examining his stores minutely?

A. He was.

Captain and Adjutant Webster being called on, produced the orderly book of the Essex Light Dragoons, which the Prosecutors adduce in support of the 3d part of the 7th Charge and of which what follows is a copy:

Drogheda, August 2d, 1799.

R. O.

“Colonel Burgoyne cannot quit the Regiment for a short time, without expressing his satisfaction for the good behaviour of the men under his command during his residence with them—he strongly recommends to them the same good conduct. The good of the service, and the happiness of those whom he commands, has been and always will be the rule of his conduct, and he holds in the utmost contempt the feeble efforts of those who wish to undermine his authority, and resist those orders he feels it his duty to enforce.”

Examined by Prosecutor.

Q. How shortly after Colonel Burgoyne was informed he would be brought to a Court Martial did he give this order?

A. I don't recollect.

Q. Was it before or after?

A. I think it was after from the purport of it.

Q. Did Colonel Burgoyne explain those orders to you as Adjutant of the Regiment?

A. I

A. I don't recollect that he did.

Captain Bund was called.

Examined by Prosecutor.

Q. What day did you give Colonel Burgoyne the charges against him?

A. We wrote a letter to him on the 28th day of July, the copy of which is annexed [See Appendix, No. 6.] informing him that we intended preferring charges against him; and on the following day we sent him part of the charges on which he is tried before this Court; he having said after we had sent the letter of notice, that if we did not on that evening send him a copy of the charges, he would put us under arrest, or words to that effect.

Q. Do you recollect at the same time his saying any thing of a triumvirate, and was it publicly said?

A. Yes, he said at a meeting of the Officers that he was once before tried by a triumvirate.

Q. By whom was he brought to trial before?

A. By three Serjeants of the Regiment.

Cross-examined by Prisoner.

Q. Do you positively swear that I said that I would put you and your associates under an arrest, if you did not send me a list of your charges that evening?

A. I have already sworn it.

Q. Did I not say that you had full liberty to bring any charges against me; but that after writing such a letter to a Commanding Officer, if you did not exhibit the charges I should put you under an arrest to support the discipline of the Regiment?

A. After you had told us you would put us under an arrest, and we were leaving the room, you added

added " *Mind Gentlemen, you have gone too far to recede.*"

Q. What reason can you have for insinuating that I pressed you to send in your charges that evening, when I permitted and even courted fresh charges that had been given in from day to day against me, and when I permitted the original charges to be altered six times?

A. What I have related to the Court you said; I can't account for your reasons for wishing the charges that evening. The alterations and additions were consented to by the Lord Lieutenant, as they were not originally framed according to the articles of war; but I don't recollect they were altered six times.

Examined by Court.

Q. Point out that part of the order produced to the Court which you conceive to be a reflection on the Officers who demanded a Court Martial on Colonel Burgoyne?

A. The words are " *And he holds in the utmost contempt, the feeble efforts of those who wish to undermine his authority, and resist those orders he feels it his duty to enforce.*"

Q. What reason have you to infer that the word, *those* alludes to the Officers who preferred the charges?

A. It struck me and the other Prosecutors it could mean no other.

Q. Did not the first part of the order allude entirely to the men, and is there any subsequent mention of Officers?

A. The word men is certainly mentioned in the first part of the order, in which we were not included, but I conceive the subsequent part was an allusion to us.

Q. When the order before the Court was issued, was

was it publicly known to the Regiment, that charges were to be preferred against Colonel Burgoyne by Officers of his Regiment?

A. It was well known in the Regiment both by Officers and men.

Cornet Daniel was called.

Examined by Prosecutor.

Q. Did you ever hear Colonel Burgoyne in the presence of the Officers of the Regiment use offensive expressions towards Captain Webster?

A. Yes, the Colonel said he was a damned rascal.

Q. Did he ever make any offensive remarks to yourself for having asserted at Naas, what you said in your last answer, as to the expression used towards Captain Webster?

A. Yes; and the Colonel in speaking to me about it, denied it, and said it was a damned lie.

Cross-examined by Prisoner.

Q. Did I say that Captain Webster was a damned rascal, or did I say that it was a rascally piece of business, alluding to a transaction relative to the troop?

A. You said he was a damned rascal.

Q. Did I not say to you, that I was sure I never used the expression, that it was a damned lie, and did I not add, if I had said it inadvertently, the man must be very wicked to repeat it for the sake of doing mischief.

A. Yes.

Examined by Court.

Q. Who was present when Colonel Burgoyne mentioned the expression you mention relative to Captain Webster?

L

A. Lieutenant

A. Lieutenant Jarvis and myself.

Q. Did Captain Webster desire you to complain of Colonel Burgoyne's having made use of an improper expression, relative to him in this public manner?

A. He did not.

Q. Did you complain of the offensive expression used respecting yourself to the Prosecutors, or did you ask them to bring this business to a public accusation?

A. No.

Q. On what terms were Colonel Burgoyne and Captain Webster, when the expression mentioned in your evidence was made use of?

A. I believe on pretty good terms, as far as I know.

Q. Did it appear to you that the expression proceeded from a warmth of temper?

A. Yes.

Q. Did you acquaint Captain Webster of the expression made use of by Col. Burgoyne?

A. Yes, I never kept it any secret.

Q. If you think Colonel Burgoyne used the expression in warmth of temper, why did you make it public?

A. I did not think any harm in mentioning it.

Lieutenant Jarvis was called.

Examined by Prosecutor.

Q. Were you present when Colonel Burgoyne made use of strong expressions relative to Captain Webster?

A. I recollect being present with Cornet Daniel and the Colonel, when Cornet Daniel wished to give up the clerking of the troop, and said that Captain Webster was a proper person to take it; Col. Burgoyne then replied that Captain Webster was a damned rascal, and that he had got enough of him already.

Q. Did

Q. Did you hear the Colonel make use of any strong expressions of or to Cornet Daniel?

A. Yes, I went one evening with the Colonel to Cornet Mitchel's lodging, Cornet Daniel was sent for, and the Col. asked him how he came to say that he called Captain Webster a damned rascal, Cornet Daniel replied, Sir, you did say so, on which the Colonel said it was a damned lie.

Cross-examined by Prisoner.

Q. Did I say that Captain Webster was a damned rascal, or did I say it was a rascally piece of business relative to the troop?

A. To the best of my recollection it was a damned rascal.

Q. Since the expression alluded to, have I not often asked you if I ever used that expression, and have you not told me that I said it was a rascally piece of business, or to that purport?

A. You did ask me about it, I did not wish to recollect it, but on asking Cornet Daniel I found you had said what I mentioned in my evidence.

Q. Was the expression used in warmth, or in cool reflection?

A. In warmth of temper I believe.

Q. Was the expression used in public or private, among friends as I then thought?

A. It was in your room, in presence of Cornet Daniel and myself, Captain Webster had just left it.

Q. Did you acquaint Captain Webster of it, and when?

A. I did; I was walking with Captain Webster at Naas, and he said, he understood he had been called a damned rascal, and that I had been present when the expression was used. I said it certainly was so, but I did not mean to tell him, if he had not questioned me on the subject.

Q Did you inform the Prosecutors of my using this expression?

A. I did not.

Q When you told Captain Webster, had you refreshed your memory by asking Cornet Daniel?

A. I told the Court before *that I did not wish to remember it.*

Examined by Court.

Q When did the conversation relative to Captain Webster, and the expression to Cornet Daniel, take place?

A. The first was about the middle of July last, at Drogheda, before the Colonel went to England; the other was either the 2d or 3d of September.

Q Had not those Officers sufficient time to have had this matter explained previous to this trial?

A. I never heard of any explanation but Col. Burgoyne's having said, that he did not say so.

Q Did the Colonel shew much anxiety at Cornet Mitchel's lodging to exculpate himself from having made use of the expression concerning Captain Webster, and do you conceive the words there used to Cornet Daniel proceeded from warmth of temper.

A. He did not shew any anxiety at that place, but I believe his expression to Cornet Daniel proceeded from warmth of temper.

Lieutenant Christopher Clarke was Sworn.

Examined by Prosecutor.

Q Do you recollect Colonel Burgoyne's making any declaration to you, as to the mode he would treat Officers who made complaints.

A. Yes, I heard Col. Burgoyne say, that if he understood the Officers of the Regiment were dissatisfied, he would punish them the more.

Examined

Examined by Court.

Q. Did you understand that Colonel Burgoyne alluded to real or imaginary grievances?

A. I understood the Colonel meant if they were dissatisfied with any orders he gave, he would give others to make them more dissatisfied.

Examined by Judge Advocate.

Q. Were there any other Officers present?

A. Lieutenant Jarvis was, and two or three others who I can't recollect.

Q. What gave rise to the Colonel's expressions?

A. I believe it was in consequence of my saying to him, that the Officers and men under his command were most completely unhappy.

Q. Did the Officers and men authorise you to make this statement to your Colonel?

A. No, they certainly did not.

Q. What induced you to give that opinion to your Colonel?

A. In consequence of my hearing the Officers and men declare their dissatisfaction.

Examined by Court.

Q. How long had you observed this growing discontent, before you mentioned it to your Col.?

A. Ever since I joined the Regiment, which is four years.

Lieutenant Jarvis was called.

Examined by Prosecutor.

Q. Were you present at Colonel Burgoyne's making a particular answer to Lieutenant Clarke, touching discontents in the Regiment, and what passed?

A. I remember being present at Drogheda in company with the Col.; Lieutenant Clarke, and
Cornet

Cornet Mitchel, Lieutenant Clarke mentioned there was a general dissatisfaction in the Regiment, and that they were not treated like officers; the answer the Colonel made was—"was the time to come about again, in which he commanded the Regiment, he would do exactly as he had done, and the more Officers complained, the more he would pinch them."

Cross-examined by Prisoner.

Q. Are you positive that I used the words "*pinch the Officers?*"

A. I think that was the expression.

Examined by Court.

Q. Did you understand that Colonel Burgoyne wished to debar his Officers and men from a redress of just grievances, or to check improper complaints?

A. I suppose the Colonel did not wish to debar any complaints or just grievances, but I must observe this circumstance took place the morning after the Colonel was furnished with the charges.

Serjeant Rotheram was Sworn.

Examined by Prosecutor.

Q. Did Colonel Burgoyne say any thing in your presence relative to the Regiment being commanded by no one but himself—relate the fact and circumstances?

A. Yes, I heard Colonel Burgoyne say at Naas, on the 14th September last, that the Officers had made a snare to catch him in, but let them mind that the snare is not to catch themselves, and there was no man should have the command of the Regiment, but himself, for he would sooner break the Regiment first.

Cross-

Cross-examined by Prisoner.

Q. To whom did I address this speech?

A. There was nobody present but myself.

Q. In whose troop are you?

A. Captain Sir Wm. Andre's.

Q. Who has commanded that troop since you were in it, and who has commanded the detachment of which this troop is a part, for this last fortnight?

A. Cornet Gregson;—I don't know who has commanded it this last fortnight, as I have been attending this Court Martial for that time.

Examined by Court.

Q. What previous conversation had taken place to draw this aforesaid declaration from Col. Burgoyne?

A. It was on the Colonel's asking me whether any of the Officers had been speaking to me about the Court Martial, and my saying there had not.

Q. Did you since that time acquaint the Prosecutor of Col. Burgoyne's declaration?

A. No—I did not.

Q. How came you to make public a private conversation between the Col. and you, and to whom did you first disclose it?

A. In the course of a conversation with Quarter-master Hawkins, I mentioned some part of what the Col. had said, but not the whole of it.

Q. Did you acquaint any other person except Quarter-master Hawkins with what Col. Burgoyne said to you?

A. To the best of my recollection I never did.

The Prosecution being here closed, and the Prisoner called to his Defence, he read an Address to Court, which is hereunto annexed, and prayed the Court to allow him time until *Monday* next to prepare for his Defence, which the Court complied with, and adjourned accordingly.

“ MR.

“ MR. PRESIDENT,

“ After the very great indulgence that I have received from the Court, I am unwilling to put you Gentlemen, to further inconvenience; but as the Prosecution has been extended to a considerable length, I hope that the period of one week will not be thought an unreasonable request, to enable me to prepare my Defence, as I am determined to avail myself of no other assistance than that of my young friend (of whose zeal and attention I have had such strong proofs) I am under the necessity of asking more time, than if I was supported like the Prosecutors, by the most eminent professional abilities. —I have also a further reason for this request:—I confess that I wish to give every opportunity to my reason to subdue the resentment which an innocent man may be supposed to feel, when accused of behaving in an *infamous manner, unbecoming the character of a gentleman*. I hope I have, and will continue to meet my Prosecutors with the firmness of an innocent man; but I will endeavour not to lose sight of the forgiveness of a Christian, and the politeness of a gentleman. As the notes of the proceedings have not been so accurately taken as I might have wished, it is hoped that I may have the indulgence of looking at the originals, for a few hours, in presence of the clerk. I have also to request, that I may have the liberty to examine the accounts delivered by Quarter-master Hawkins, of the particulars of which I am so perfectly ignorant, that I shall not be able to answer this part of the charges without seeing them. I likewise request that I may have a copy of a letter from the Adjutant, and also of the two accounts of Quarter-master Hawkins, which I delivered to the Court, likewise a copy of the account given in this day by the Pay-master.”

Monday

Monday November 4th, the Court met pursuant to adjournment.

Colonel Burgoyne opened his Defence by reading the following Address to the Court, and then read a Paper relative to the 1st Charge, which is hereunto annexed.

OPENING OF THE DEFENCE.

“ MR. PRESIDENT,

“ THE welcome day is at length arrived, when with my stripling by my side, I am come to meet those noble Philistines. We are not literally armed with a sling and a stone, nor are they like Goliath, arrayed with armies, the discipline of which they would I fear very soon spoil:—But if human assistance could avail, the powers which we possess would be as disproportioned as those of the innocent champion mentioned in a very interesting part of sacred history.

“ For myself, I neither possess legal or natural abilities, and my young friend, just entering into the world, can only offer to me a sound understanding and a warm heart, which trembles on perceiving the snares that have been placed for the unsuspecting, and the plots that have been formed against the unwary.

“ On the side of my prosecutors, legal abilities, quick penetration, a sound judgment and an extensive knowledge, are exercised by a Gentleman, whose polite manners and candid behaviour have recommended him even to the person against whom his powers are directed. The object we contend for is not the fate of nations; but to me it is an object of far greater moment—for what is security of
life

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“ On the side of my prosecutors, legal abilities, quick penetration, a sound judgment and an extensive knowledge, are exercised by a Gentleman, whose polite manners and candid behaviour have recommended him even to the person against whom his powers are directed. The object we contend for is not the fate of nations; but to me it is an object of far greater moment—for what is security of
life

life or property—what is liberty—what is dominion—without honour and a good name? That jewel is attempted to be wrested from me, which cannot enrich my prosecutors, though the loss of it would make me poor indeed.

“ To shew the asperity with which this prosecution has been carried on, I beg leave to observe, that the different lists of charges which I have in my hand are no less than six, including the last sent me relative to my withholding Lieutenant Brock’s pay, which, though my prosecutors have chosen to withdraw, I shall have occasion to speak of presently.—The first is dated 29th July, the second 30th July, the third 30th July in the evening, the fourth 2d August, the fifth 10th September, and the sixth and last, which they have chosen to withdraw, is dated on the 8th of October.

“ My readiness to meet any charges brought against me has been strongly proved by one of my prosecutors, who in his evidence says, “ That at a meeting I called of the Officers, I remarked that—*they had gone too far to recede.*”—And a letter which I wrote to the Major concerning the last charge delivered, will prove my willingness to submit every part of my military conduct to the examination of this respectable tribunal. On receiving the following letter *, I called a meeting of my Officers, when I told them, that any Officer had a right to arraign my conduct, but that I could not permit such strong murmurs of discontent to remain unnoticed, and that I insisted on an immediate explanation of their complaints, which if they did not prefer, I should think it my duty to put them under an arrest. I thought this necessary, because I believed, and still think, that their object was to intimidate me by threats, and drive me from the command of the Regiment. It was originally my intention to pass
over

* See page 158.

over the malice and sinister views that appear to have actuated my prosecutors. It occurred to me, that my guilt or innocence could not be established by the virtue or malice of those who accuse me: if facts were proved, it signified little by whom. However, I find, that in this prosecution malice bears so strong a feature, and the proofs of a conspiracy lie in so small a compass, that I feel it a duty which I owe to myself—to the discipline of his Majesty's army, and to all Commanding Officers, to expose to the public view the most inveterate malice, the deepest conspiracy, and the most malignant persecution that ever appeared before a Military Court. But this part of my duty I shall reserve for the close of my defence: and here, Sir, let me observe, that though some examples which have lately occurred may be of public benefit, by putting Commanding Officers on their guard to conform themselves strictly to his Majesty's regulations, yet if every discontented Officer is permitted with impunity to bring his Colonel to a Court Martial, on the slightest suspicion, or perhaps on no suspicion at all, there will be a total stop put to all discipline, and Commanding Officers will rather let their regimental concerns flow in an irregular channel, than expose themselves to the disagreeable situation in which I have been placed for the last three months.

“ In submitting my defence to you, it is my intention, in a prefatory manner, to take some notice of those parts of the evidence which I consider deserve particular notice; and in so doing I shall not entirely pass by the large assembly of witnesses, who, though summoned, have never been called for, but have spent their time in idleness. Quarter-masters and non-commissioned officers have been detained from their duty at a time when they were much wanted; and in consequence of privates being kept here, the duty has fallen heavier on those
men

men for whom one of my Prosecutors has expressed himself *so much concerned*, when a saddler and boot-maker were employed at work for the Regiment.

“ When I have concluded this preface, I mean to answer the accusation charge by charge, in as clear and pointed a manner as I am able, and shall introduce my witnesses as I go on. Should I fail in any one point to make my innocence appear as clear to the Court as I am conscious of it myself, I have no doubt of experiencing that assistance, which by the mild laws of our constitution, a prisoner has always a right to expect from a tribunal. It is unnecessary for me to remark, that the Judge Advocate, by his institution, is intended to be as much an advocate for the prisoner, as for the prosecution; and I am confident, that if from inexperience and want of method, I fail in explaining every thing satisfactorily to this Honourable Court, he will have the goodness to conduct me into the right path. Few men, I believe, are more able to do it, and none more desirous to perform an act of kindness:—I press a good deal on this point, because I am confident of having in no one instance acted against any of his Majesty’s regulations. And should I for a moment be thought to have forgotten the gracious and paternal admonition of my Sovereign, I have no doubt of removing any unfavourable impression of this kind by a further explanation; and here I beg leave to read the sentence of my last Court Martial—the letter from the Judge Advocate, and his Majesty’s sentence and gracious admonition.

Adjutant

Adjutant General's Office, Edinburgh, 18th December, 1797.

“ General Orders.

“ The whole of the proceedings of the General Court Martial on the trial of Colonel M. Burgoyne of the Loyal Effex Regiment of Fencible Cavalry, having ben laid before the King—his Majesty has altogether approved of the opinion and sentence of the Court Martial, as applied to each article of charge severally, as well as to the whole matter collectively, whereby Colonel Burgoyne is absolved from the imputation of an act unbecoming the character of a Gentleman, or of having in any instance harboured a dishonourable intention.

“ With respect to the two points in which the Court Martial has declared Col. Burgoyne's conduct to have been irregular and open to censure, but has at the same time recommended him to his Majesty's clemency—His Majesty has been graciously pleased to dispense with his receiving any other reprimand than that which the animadversion of the Court Martial virtually conveys, and which his Majesty trusts will operate as a monition to him in the statement and arrangement of all matters that may concern the Regiment under his command; to observe invariably the direct and regular course, and to conform to the accustomed rules of the service; by which means he will deprive any persons who may be unfavourably disposed towards him of an opportunity of misrepresenting the motives of his conduct.

“ Upon the whole, his Majesty has been pleased to direct, that Colonel Burgoyne be released from his arrest, and restored to the functions of his commission.

“ It

" It is General Lord Adam Gordon's order, that the articles of charge, opinions and sentences, together with his Majesty's pleasure signified thereupon, be circulated and read to all the Regular, Feucible and Militia forces in North Britain.

Signed,

ALEX. MACKAY,
D. A. Gen."

Extract of a letter from the Judge Advocate.

" It is likewise a pleasing circumstance, that the result of this minute enquiry has been such as must effectually check all further investigation on the charges touching the other Officers of this Regiment—for this being a matter that was remitted to the discretionary judgment of Lord Adam Gordon, after weighing the evidence on your trial, I know for certain, that his Lordship will not authorize any further procedure on the charges of those prosecutors.

" The only circumstance to be regretted is, that his Majesty has not, in his review of the sentence given any direction touching Ventrice and his two associates—it is evident you can have no comfort while those fellows remain in the Regiment, &c."

" A good deal of stress has been laid on this admonition by one of my prosecutors, and I do confess that if I should appear to have wilfully offended after this condescending mark of his Majesty's favour, I deserve a more severe sentence. But, fortunately for me, the Royal advice so kindly and graciously given has had that good effect which was intended by a great Monarch, justly styled the Father of his People, who from his elevated situation looks down with concern, and often with pity, on the lives and actions of his subjects, and is always anxious to prevent not to punish offences.

" How

“ How far that officer who bears his commission has followed his noble example, the charge relative to Edward Saltmarsh will clearly evince. After endeavouring to tear asunder the bonds of connection between the landlord and the son of his tenant, born in his parish, fostered under his wing, and educated at his expence; finding the boy well satisfied, and being told by him that I meant to settle his bounty, he orders him to make no further application—why?—least he should be deprived of the opportunity which *he thought* he had of making me appear a dishonest man, by a charge formed in malice, and intended for no other purpose than to gratify private resentment.

“ There is one person not summoned by my prosecutors, whom I shall certainly bring forward, though they did not:—I mean lance-corporal Tappins—that dragoon, who has been admitted by his Captain to the familiarity of a shake by the hand on the public parade.—The original Apollo who was consulted on the business, and whose evidence was drawn up in such a masterly manner that it must have carried conviction with it.—Does the delicacy of my prosecutors keep this man in the back ground, or does his own delicacy keep him from coming forward? But on which ever side the delicacy originates, I should be much ashamed indeed, if the mercy which his Majesty has entrusted me to distribute, should be the means of robbing my prosecutors of a useful and necessary witness. I shall therefore introduce him to this Court with a few anecdotes of his life and adventures.

“ Lance-corporal Tappins was once full corporal, but being an idle shuffling fellow, and always in the Hospital, I found it necessary for the benefit of the service to reduce him, and appointed a more useful man in his place.

“ It

“ In the month of *June* he arrived in Drogheda from a furlough, and was received by his Captain in a manner that then appeared to me very extraordinary:—a cordial shake by the hand from his Captain, hardly seemed an honour conferred upon him, at which I could not avoid expressing my surprise and disapprobation. The effect produced by this unusual compliment, was the fabrication of such a narrative of the horses feed in Essex, as he thought would be most agreeable to his Captain. An evidence, however, will be produced to prove that he acknowledged having gone too far, and that he could not substantiate what he had alledged, and that he would apply to his Captain to procure his discharge—“ For that he should be in a very awkward situation if the Col. carried the day.”

“ About a month since, on visiting the detachment at Timmolin, I was told that lance-corporal Tippins, whilst commanding the mail-coach escort had fallen from his horse, and was apparently so drunk that he was left on the road, and was supposed to have deserted. However, he returned the next day, and was of course ordered into confinement to head-quarters, to be tried by a Court Martial. Here I must quit lance-corporal Tippins for a minute to take some notice of his Captain, who sent for the six privates who formed the escort under Tippins—told them they were against Tippins because Tippins was against the Col.—told them that it could not be at a worse time, and declared that he would have it out of one of them. These threats, however, did not intimidate the witnesses, and in consequence of their evidence lance-corporal Tippins was sentenced to receive five hundred lashes, though his Captain appeared in his favour, and declared that he had never known him commit *the least fault, that called for the smallest censure.*

A parade

A parade was ordered, and the prisoner Tippins was stripped to receive his punishment.—but abhorring the appearance of any mixture of private vengeance with public justice, I pardoned a fault, which I never pardoned before, and will never overlook again. I sent the prisoner to his troop, with an exhortation to confine himself on all future occasions, within the limits of truth and sobriety. Whether this admonition has had any effect, his evidence will shew, though it is perfectly indifferent to me.

“You have heard general complaints of my arbitrary and severe conduct both to Officers and men, but where are the instances? I submit it to the Court whether every thing has not been raked up against me, from the price of a troop horse to a bit of buff leather. You have been informed of dissatisfaction among the men, and of their just claims being neglected, but where is the dissatisfied man—where is the complainant? If one could have been discovered, would he not be brought before this Court? One attempt they have made, and that was by producing a young man who could not be *persuaded* to forget his benefactor. Any further defence against this charge is unnecessary; but I wish not only to shew to you how I have even courted claims to be made on me, but I will bring before you non-commissioned officers who are well acquainted with the sentiments of the men—they shall inform you, whether I command a dissatisfied or a contented Regiment—whether their Col. is considered a merciless tyrant, or whether he is esteemed their friend and patron, always ready to sacrifice his time and fortune to the comfort and happiness of his men.

“To those who doubt of the propriety of my managing my regimental concerns, I beg leave to submit my standing orders, and the occasional orders given from day to day.

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“ It has been the fashion in that party, that has been always hostile to me, to ridicule these orders, and to find fault with the frequent repetition of them; but where does this originate, but from the obstinacy of those who have disobeyed them, and made it necessary for me either to repeal them, or to bring to punishment those who neglected them. Had I been the arbitrary Commanding Officer which I am represented to be, I should certainly have preferred the latter. My frequent repetitions proved that I preferred admonition to punishment: the tree is known by the fruit; if my conduct has been such as is represented by my prosecutors, would the Regiment have received the compliment that has been lately conferred upon it by General Grosse, who it has appeared in evidence, declared it was the finest Regiment he had ever seen. This declaration is confirmed by his report, which shall be laid before the Court Martial. I shall likewise have the honor of presenting to you the testimony of the Lieutenant General, under whom the Regiment has the honor and happiness to serve, and whose good opinion of the Regiment is the highest gratification that can be conferred upon me. A Brigadier General whose judgment both as to men and horses, must carry equal weight, has kindly promised to give his opinion to this Court. A General Officer, who once with so much credit to himself, and satisfaction to the army, filled the highest military situation in this kingdom, has expressed in very strong terms his approbation of the detachments of the Essex Light Dragoons, who were quartered in his neighbourhood; it is not however the superior quality of the horses, the excellence of their condition, and the discipline of the Regiment that I am most proud of; it is the goodness of the hearts of the men, their constant good behaviour,
their

their approved loyalty, and their steady attachment to me under the most trying circumstances; for where is the Regiment to be found consisting of three hundred and thirty-men, in which not *one man can be even persuaded* to be dissatisfied. I must however correct myself, for I do recollect one man who acted as a bat man for several months to one of my Field Officers, and thereby wore out his necessaries, and has never been able to receive the small sum of 2½d. per week which amounts to 3/.

“ My Pay-master will lay before you upon oath, a list of the contingent expences which have come out of my pocket since my last Court Martial, the amount of which is 518l. 18s. 1d. besides many other sums given to the men and their wives, which I should be ashamed to mention to this Court. Had I through any mistake of an inferior Officer derived any pecuniary advantage of small value by any over-charge, I hope that this Court will not imagine, that the man who had voluntarily expended hundreds out of his own pocket for the good of the Regiment, would condescend to be the peculator of a few pounds; were I permitted to go back to the first raising of the Regiment, I could prove that so far from benefiting myself by any saving, thousands of my own private fortune have been expended on the object I had in view, viz. the making this Regiment useful to his Majesty's service, and an honor to me; let it not be imagined that I mention this as an apology, or set off for any improper conduct. I will meet every charge on its own ground; but attacked and persecuted as I have been, I hope I may without vanity endeavour to put my conduct in such a point of view, as to make it clear, that my prosecutors *never could have thought me* guilty of the crimes with which they accuse me.

“ In regard to the first Charge relative to the purchase of horses, I have no doubt that I shall establish a sufficient defence by bringing before you the proceedings of a Court Martial holden on Colonel Murray of the Perthshire Cavalry, in the year 1796, and also the evidence of two Officers who formed a part of that Court Martial.

“ In the 31st Charge, Colonel Murray was accused of purchasing a troop horse for thirteen guineas; Colonel Murray's defence was, that the Commanding Officers of Fencible Corps were not accountable for the price their horses cost, provided they were approved by the Inspecting General. The Court sustained the defence made by Colonel Murray, and found the charge frivolous, *and his Majesty approved the sentence of the Court.* Here, Sir, is a direct decision of a Court Martial composed of the most respectable Officers then serving in North Britain. If a Colonel of a Fencible Regiment of Cavalry could not regulate his conduct by this decision, by what rule could he regulate it? But by the determination of the Court Martial on Sir George Thomas, our eyes are now opened, and any Commanding Officer who acts contrary to his Majesty's orders, will have no excuse; I should not be afraid to rest my defence here, but I am proud to say that I disdain to shelter myself under any decision whatever. I mean to place my conduct and character on more honourable grounds, and to defend my honor on this principle; that if I do not make it appear that on all occasions I have preferred the good of the service; and the honor of the Regiment to any private advantage for myself, I will plead guilty, and submit to be branded with public shame.

“ When I first raised this Regiment, I will not say whether I was actuated by patriotism, vanity, or a desire of popularity in the county where I live;

live; but certainly it was not the acquisition of lucre that I had in view: I must make some remark on the evidence of my Lieutenant Colonel, who says, that if he had purchased a horse for fourteen guineas, he would have charged that price to Government. I do not at all doubt but the Lieutenant Colonel would have acted in a most honourable manner, and would have done what he thought was right, but on enquiry at the War-Office here and in London, I do not find that there is a single instance of a troop horse being charged at a less price than twenty-five guineas, the regulated price; nor can I conceive why a Commanding Officer should not take that advantage for the good of the Regiment, though he disdained to accept it for his private emolument; if he produces a horse fit for his Majesty's service, for fourteen guineas, he has eleven guineas to add to the regulated price for others, by which means he may surely procure better horses. This mode I have adopted, and I refer it to those who are best judges of horses, whether it has answered, and whether there is at present a Regiment better mounted than the Essex Light Dragoons. Various witnesses will give their opinion on this point, for I am ambitious to prove that the public money committed to my care, has not only been honestly, but advantageously expended. With this view I requested Brigade Major Cannon, in the Commissary General's Department, not only to look at the horses, but to see the men and their appointments; from his great knowledge and experience, and particularly from the fame that he acquired in forming and disciplining the first Regiment of Fencible Cavalry on the British Establishment, I was anxious to procure his opinion of the Regiment, and persuaded him, with much inconvenience to him, to go to Naas for that purpose; not being able to
give

give my orders myself, I requested the Lieutenant Colonel to order the Regiment out, and had he been at Naas, I am sure he would willingly have complied with my request; the Adjutant by my desire applied to the Major, who gave *positive orders* that the men and horses *should not be seen*. Probably he thought that the appearance of the Regiment would do credit to the Colonel, and therefore prevented it. I thought it the more necessary, because my Lieutenant Colonel has given it as his opinion that the horses bought at the first raising of the Regiment, were not worth twenty-five guineas a horse; that they cost more I could easily prove were it necessary: they were much admired by the General Officers that inspected them; and I imagine that this Court will not think that they were ill bought, when I inform them, that on a reduction which took place in 1796, those horses that were drafted as the worst; sold on an average at 18/. per horse; and some as high as thirty-three, though the market was overstocked with horses on account of the reduction of several Regiments.

“ That the horses improved very much after being bought, the Lieutenant Colonel admits, but this he attributes to the superior attention of the Officers and men: that every attention was paid to them is most certain; but though it has been vulgarly imagined that a horse dealer can put on flesh to any part of a horse as he pleases, I shall not easily be persuaded that any care and attention will make a horse a clever one, that was not originally so, or that rubbing a horse can improve his bone, shape or make.

“ As to the forage accounts, I will prove by the strongest evidence that the horses have had more than I charged. Not only respectable witnesses will prove, but I have written documents

to

to confirm their evidence, if this Court wishes for further proofs. My servant John Payne, is one of my witnesses, but not the only one, and as he may be supposed to be attached to me, and as my prosecutors have very insidiously brought forward a witness who reports, or rather misrepresents transactions, which if believed, would do him no credit, I think it necessary fully to establish the character of this witness, before I bring him forward; and with this view I shall call on the first of my prosecutors who will inform the Court of the conduct and character of John Payne while he acted as Quarter-master of the Essex Light Dragoons. The transaction to which I allude, shall be fully explained when we come to the article of Quarter-master Hawkins's account.

"I shall now proceed to give my answers to the Charges, supporting my answers by evidence, but I must once more entreat this Court, that if in any one of these my defence should not be satisfactory, the Court will give me an opportunity of a further explanation, for I am confident if I do not account for my conduct to the satisfaction of this Court, it will be owing to my awkward manner of explaining myself. Every document and explanation in my power to produce which may enable the Court to come at the true state of facts, shall be laid before you; and I repeat it, that I have not a thought upon this business that I wish to conceal."

I. CHARGE ANSWERED.

When I first received a copy of this charge, my astonishment was great, and I think that the surprize and indignation of the Court will be equal
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to my astonishment, as soon as I have answered it; if there is any part of my military conduct that marks my care, attention and liberality, it is the purchase of troop horses for that Regiment, that has been my pride and delight; to boast of a superior Regiment, not to amass a fortune has been my object—sufficient evidence will be brought of the superiority of the horses, and I shall lay before you equal proof, that instead of deriving any emolument from the purchase of horses—I have been in fact what it appears in evidence I told the Pay-master I was, viz. a loser. The first part of the charge brought against me, is, that Quartermaster Payne brought to the Regiment in November 1797 nine troop horses, which he purchased at Newcastle fair for 180*l*.—proof is brought that two of my Prosecutors admired those horses very much, and said that they were the best lot of horses that ever joined the Regiment, and they have the candour to confess that they recollect the circumstance; still they say they ought to have cost 25 guineas each; I might easily avoid the trouble of answering this part of the charge, because it was one month before my Court Martial; but when my honour and character are at stake, shall I, before a Court of Honour shelter myself under such a paltry excuse? God forbid! I will meet the charge as it becomes me. And first, I rest on the defence I have just mentioned, not on my own account, but for the sake of any unwary Commanding Officer, who understood the agreement with Government in a different light from what it is now understood to be; as to myself I reject the ground, strong as it is, and shall prove that I have more than done my duty in the purchase of troop horses. In the end of October when three horses were wanting to complete, I thought it prudent to avail myself of a large fair at Newcastle, by sending Quartermaster

master Payne to endeavour to find some clever horses. I very well knew, that as we were complete, the risk and expence of keeping them would fall on me, till there were vacancies, when they should be put on the Establishment; this was literally the case, for they were kept by me till the end of January at the expence of 20*l.* 3*s.* 6*d.* which will be proved by the Pay-master. Payne's bill amounted to 10*l.* 14*s.*—nicking 2*l.* and though I do not charge the whole of the salary which I paid a person to do his business, I surely have a right to charge one quarter's salary if I purchase horses of a superior sort. Is it not indifferent whether I pay a dealer 25 guineas or whether I pay the dealer 23*l.* 15*s.* and 2*l.* 10*s.* to the man who gives me his knowledge and experience in buying them? In this transaction the account will stand thus:

	<i>l.</i>	<i>s.</i>	<i>d.</i>
Paid for nine horses	180	0	0
Payne's bill	10	14	0
Horses keeping to the end of Jan.	20	3	6
A Quarter-master's salary to Q. } M. Payne who bought them	25	11	0
Expence of Nicking	2	0	0
Part of a bill for drugs	5	0	0
	<hr/>		
	243	8	6
Deduct 225 guineas or	236	5	0
	<hr/>		
Overpaid	7	3	6

I must here observe that I do not take into consideration the risk I ran, for if all or any of the horses had died, or been spoiled before they were placed on the Establishment, the loss would have been mine.

I am next charged with buying two horses at Ayre, one for 20 guineas the other for 15 guineas, and one at Newry for 14 guineas; these horses have,
I believe,

I believe, been already proved to be fit for the service, and I hope that the members of this Court Martial will see them—I shall shew that the money saved in those purchases have been expended in others; the next part of the charge is, that twenty horses were received by Cornet Gregson on the 1st October, and that they cost 20 guineas each, and that Haydon the horse dealer, mentioned the price to Gregson, and received in two orders 420*l.*; I could very easily object to this evidence, and especially as I had in my hand a letter from my nephew Sir Montagu Burgoyne, which states that the money was paid on account, and that he did not know the price of the horses. It has been proved, that from the 1st October to the 1st January 1798, there were nine troop horses purchased, for which I gave Haydon a draft on the Agent for 262*l.* on the 1st January, which average the price of those nine horses at 29*l.* 9*s.* 6*d.* I shall prove that between the 1st of January and the 5th March, six horses were purchased at 30 guineas each horse. Hearing at that time of Sir George Thomas's Court Martial, though little suspecting that such a charge would be brought against me, I fortunately took a receipt, which I never did before. The 20 horses delivered on the 1st October had been bought long before their delivery; but as I was absent from England they were kept by the dealer, who charged me 23*l.* 8*s.* 9*d.*, he also charged me 20*l.* for exchanging two horses which I did not approve of; I shall also bring evidence to prove, that disliking one of the horses that had been inspected and approved of by the General, and after he had met with an accident, I sold him for 5*l.* 5*s.* and replaced him at the expence of 21*l.* Let us now make out the account and see, whether on the whole, I have been a gainer or a loser—I will take the whole account of every horse purchased since 1st October 1798, to March 5th 1799.

Supposed

	<i>l.</i>	<i>s.</i>	<i>d.</i>
Supposed to have been paid Haydon for 20 horses delivered on the 1st October 1798.	420	0	0
Paid Haydon for their keep previ- ous to their being borne on the Establishment	23	8	9
Paid him for 9 horses Jan. 1st.	262	10	0
Paid him for 6 horses March 1st.	189	0	0
Paid him for exchanging 2 horses	20	0	0
Lost by exchanging a troop horse at Drogheda	21	0	0
	<hr/>		
	935	18	9
The government allowance for 35 horses at 25 guineas each	918	15	0
	<hr/>		

Loss to the Colonel

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Which sum taken with the loss I suffered by the horses bought at Newcastle fair at 7*l.* 3*s.* 6*d.* will very nearly account for the saving of the purchase of two horses bought at Ayre and one at Newry, the amount of which is 27*l.* 6*s.* the remainder of the bill of 25*l.* which I engaged to pay to Quarter-master Payne for horses' drugs will much more than make the balance against me.

I have not taken notice of the six horses received from Yare and Park in Newcastle, for which I agreed to give 25 guineas, delivered at Carlisle, by which I was sure to be a loser by their expence of travelling, besides the risk I ran, and if the augmentation had not taken place, I must have kept them many months at my own expence. They were the only bad lot of horses sent to the Regiment: I trusted the horse-dealer who had always used me well, but he deceived me.

Major

Major Crosse was called.

Examined by Prisoner.

Q. Was John Payne Quarter-master in the Essex Light Dragoons, and what is your opinion of him?

A. He was, and I never heard any complaints of him; he was not in my troop.

Captain Webster was called.

Examined by Prisoner.

Q. What was your opinion of John Payne when Quarter-master in the Essex Dragoons?

A. I never saw him as Quarter-master in the Regiment.

Q. Did he act as serjeant, and what was his character and conduct as such?

A. He did, and his character and conduct was very good in general.

Q. When did four of the horses bought by Quarter-master Payne at Newcastle fair, come on the strength of the Regiment?

A. On the 23d January 1798.

Q. From the time they were bought until placed on the strength of the Regiment, at whose expence were they kept?

A. I should suppose at your expence, as the Regiment was complete in horses without them.

Quarter-master Payne was called.

Examined by Prisoner.

Q. Did you furnish me with the bill now shewn you, and where?

A. Yes, at Hadington.

Q. How much of that bill did you pay on account of the nine horses?

A. 4*l.* 14*s.*

Q. What

Q. What did you pay for the horses, feed on the road, not included in the bill?

A. I did not travel with the horses, but should suppose their feed came to 2s. 6d. a day for each horse.

Brigadier General Barnett was Sworn.

Examined by Prisoner.

Q. Did you not by my desire in the beginning of August last, inspect the men and horses under my command at Drogheda, and what was your opinion of them?

A. I did, that part of the Regiment there quartered on the 1st August last, in watering order; I thought that the men and horses were well chosen, the horses I considered as being particularly good, and in the highest condition.

Q. Did I particularly request you to look at some young horses, for the buying of which I told you I expected to be brought to a Court Martial?

A. I perfectly recollect your pointing out to me four or five young horses that I considered as superior to any of the rest, but I don't remember your remarking as to the Court Martial, though you said something about two curricie horses, that were in exchange.

Serjeant John Purdon was Sworn.

Examined by Prisoner.

Q. Did you bring nine horses in November 1798, from Newcastle to Hadington, and what did you pay for their keep on the road?

A. Yes; I was four days on the road, and had another horse with me, but don't recollect what I paid.

Q. Did

Q. Did they cost three shillings each, including hay and corn, day and night?

A. As near as I can guess it was three shillings a day each.

Captain Hyde, Cambridge Fencibles Sworn.

Examined by Prisoner.

Q. Were you not member of a General Court Martial holden on Colonel Murray in the year 1796?

A. Yes.

[The Prosecutors admit the Court Martial alluded to by Colonel Burgoyne, as to its opinion on the charge against Colonel Murray, about the purchase of troop horses.]

Q. Do you know whether the Quarter-masters warrants were purchased on raising the Fencible Regiments of Cavalry?

A. In the troop I am, the Quarter-master did not buy his warrant, but there were some warrants sold, I believe, on the Regiment being first raised.

Q. By whom were they sold?

A. By the Colonel as I believe.

Lieutenant Jarvis was called.

Examined by Prisoner.

Q. Was I at any expence, and how much for the keeping of four troop horses brought from Newcastle from the beginning of November 1797, till the end of January 1798?

A. Yes, 19*l.* 0*s.* 7*d.*, but I am not sure of being quite correct in this statement, but the charge is settled in a former account of savings.

Cross-

Cross-examined by Prosecutor.

Q. Why were the horses kept and fed at the expence of Colonel Burgoyne?

A. It was before they came on the strength of the Regiment.

Q. Do you mean to say that the Regiment was complete as to horses?

A. There were five horses cast by General Drummond at Hadington early in November, but they were kept on the strength of the Regiment till they were sold on the 22d January.

Q. Was not the Regiment's being complete in horses at that time owing to Colonel Burgoyne's keeping those cast horses on the strength of the Regiment?

A. The Regiment would not have been complete if the cast horses had been sold on the day they were cast, because Colonel Burgoyne had then but four to replace them.

Q. If Colonel Burgoyne had not kept those five cast horses on the strength of the Regiment, would he have been at the expence of keeping the four new ones?

A. It could not have been any expence.

Q. While Colonel Burgoyne was keeping the four new horses at his own expence, was he not charging Government for the keeping of the five cast horses?

A. Yes.

Q. When and where were those five horses cast, and what became of them, were they sold by auction, and what did they produce?

A. I don't know where they were sold, but I believe in Essex, and Colonel Burgoyne told me they were sold for 18 $\frac{1}{2}$ l, and there is such a credit in my books to Government on that account.

Q. Did Colonel Burgoyne charge Government with

with the travelling expences of those five cast horses from Scotland to Essex?

A. Yes, they were charged the same as all other horses marching to England.

Q. Do you not believe they would have sold for more money when cast at Haddington in Scotland, than after a long march into Essex?

A. I think they would, but that is merely a matter of opinion.

Q. Is it not customary in Great Britain for cast horses to be sold by public auction at the head-quarters of the Regiment?

A. Yes.

Examined by Court.

Q. Is it the custom of the Cavalry to sell their horses immediately when they are cast, or is it usual to wait to sell them to the best advantage?

A. They are generally sold soon after.

Q. Do you believe the bill for 262*l.* 10*s.* was for the payment of the nine horses or for more?

A. I believe Colonel Burgoyne purchased the horses sometime before they were on the strength of the Regiment—there is but that one bill appears during that period for nine horses, and there are three horses more in my books entered on the 7th January, and there is no other payment appears in my books to Haydon on account of horses.

Q. Can you say that the three horses put on the strength of the Regiment the 7th January, were bought from Haydon?

A. I don't know.

Q. Was there any draft in favour of Haydon between 1st January and 9th March last, besides the 262*l.* 10*s.*?

A. None in account with me.

Q. Let us look at the account you shewed me some days ago?

A. Here

A. Here it is.

Q. Do you believe that Colonel Burgoyne drew a bill on the agents Messrs. Rofs and Ogilvie for 69*l.* 14*s.* 6*d.*, dated 26th February last, and on what account?

A. Yes; but I don't know on what account, but suppose for horses; that item appears in an abstract from the Agent's Office, and it came in a letter to me, dated 1st October last.

Q. Does it appear whether any horses were recruited exclusive of the 3 on the 7th January, to which the last mentioned bill could be applicable?

A. There is a horse mentioned in my books on the 25th February and there are two on the 1st March, but I am not quite certain, as there were some little variation in the former account.

Q. If you conceive the horse of the 25th February, and two of the 1st March are applicable to the bill of 69*l.* 14*s.* 6*d.*, to what sum do you apply the 3 horses of 7th January?

A. I can't tell from whom the horses were bought.

It being 3 o'Clock, the Court adjourned till to-morrow at 10.

Tuesday 5th November, the Court met pursuant to Adjournment.

Lieutenant Jarvis was called.

Examined by Court.

Q. Can you explain why horses cast by a General, and of course as unfit for service, should be kept

N

above

above *two months* on the strength of the Regiment, was it not creating great and unnecessary expence to Government?

A. It was Col. Burgoyne's will, and it was creating a great and unnecessary expence to Government.

Q. On what day were the horses cast at Had-
ington?

A. Some day about the middle of November.

Q. When did the cast horses leave the Regiment for Essex?

A. The 8th December 1797.

Q. Do you know any reason for sending the cast horses into Essex?

A. None, but it was Colonel Burgoyne's order.

Q. Was Colonel Burgoyne at any expence in consequence of keeping those five cast horses on the strength of the Regiment?

A. The four horses that were to replace them, were kept at Colonel Burgoyne's expence.

Q. Can it be said that Colonel Burgoyne was at the expence of keeping those four horses if he charged Government with the amount of their feeding in the price of *those* horses?

A. He could be no loser, if he charged the expences in that manner.

Q. Explain to the Court how the horses kept as you say at Colonel Burgoyne's expence could be a great and unnecessary expence to Government by being kept on the strength?

A. As I said before I thought they would sell better in Scotland than in England, and forage was also cheaper at the former place than on the march through England; and there was a difference in one horse, there being *five* cast and but *four* to replace them.

Q. Were the four horses from the time they were recruited to the time they were put on the strength

strength of the Regiment, used in any way by Col. Burgoyne for private purposes?

A. I believe they were not used by him for private purposes, but then put to work for the use of the Regiment.

Examined by Prisoner through Court.

Q If you made any mistake in the keep of the four recruited horses, please correct and explain it to the Court?

A. 20*l.* 3*s.* 6½*d.*

Q Don't you recollect that the reason I gave for sending the five horses into Essex were to accommodate some of my men who were on furlough, some of whom had been ill?

A. There were some men going on furlough at that time, and I suppose they might have rode those horses, but I did not hear you assign any reason.

John Payne was Sworn.

Examined by Prisoner.

Q Have you ever received any order from me for the purchase of troop horses?

A. Yes.

Q Look at any letters that I wrote you on that subject, and say what instructions I gave you?

A. I have had at various times instructions from you about the purchasing horses for the Essex Regiment, and I received a letter from you dated 7th June last, saying that you would allow 25 guineas per horse and more.

Q Did I give you any order for a higher price than twenty-five guineas?

A. Yes, as far as 28 guineas, and that is in a letter I received from you, dated Markhall 7th May last.

The Colonel here informs the Court, that he used every possible endeavour to procure the attendance of Edward Haydon horse-dealer from Essex, as an evidence in the defence, and that he cannot obtain him as a witness before this Court; the Colonel here offers to the Court two affidavits and also bills and receipts of the said Edward Haydon, as the best evidence he says he is able to adduce in this part of his defence, and which the Deputy Judge Advocate stated not to be admissible evidence.

The Prosecutors made their objection to the admission of those papers, and the Court having deliberated thereon, directed the Deputy Judge Advocate to take the opinion of the Judge Advocate General as to the legality of those documents, which correspondence and opinion is annexed to the proceedings, [See Appendix, No. 7.] But though not allowed as legal evidence, the Court indulged the Prisoner with allowing them to accompany their proceedings to Government.

John Payne was again called.

Examined by Court.

Q. Did you ever make a bargain for a higher price than 25 guineas a horse?

A. No, but I have delivered such orders to Haydon by the Colonel's desire.

Examined by Prosecutor through Court.

Q. Did you go on or about the 30th September 1798 to Haydon's house with Cornet Gregson, to look at twenty horses purchased from Haydon for the Essex Dragoons?

A. I

A. I recollect my going with Mr. Gregson to look at twenty horses, but can't say the time.

Q. Did Haydon tell Cornet Gregson that Colonel Burgoyne had contracted with him for twenty guineas a horse, and that other horse dealers found fault with him for so doing?

A. I don't recollect.

Col. Burgoyne here delivers to the Court the following statement :

	<i>l.</i>	<i>s.</i>	<i>d.</i>
No. 1*, Paid for 9 horses,	180	0	0
No. 2†, Payne's bill for expences,	10	14	0
No. 3‡, Horses keep to the end of January 20	3	6	
No. 4 , Quarter-master's salary to Payne — — —	25	11	0
No. 5*, Nicking, — — —	2	0	0
No. 6†, Part of a bill for drugs,	5	0	0
	243	8	6
	Deduct 236	5	0
No. 7‡, Over paid, — — —	7	3	6
	<i>Lieutenant</i>		

* No. 1. With regard to the first item it is admitted.

† No. 2. The second item is also admitted.

‡ No. 3. As to the third item, the evidence of Lieutenant Jarvis (page 174), states the charge of these horses keep "*to have been settled in a former account of savings.*" But even if the Colonel had not *thus reimbursed himself*, for this alledged expence, it further appears from the evidence of Lieutenant Jarvis (page 175 and 6), that had Colonel Burgoyne sold the five horses, cast at Haddington, by General Drummond, instead of marching them into Essex, these four would have come immediately on the strength of the regiment, and of course no charge for their keep would have been incurred.

|| No. 4. This statement of 25l. 11s. as a salary to Quarter-master Payne, appears no where to have been received by him, and as to its being given to Quarter-master Starkey for doing Payne's duty, the evidence of Lieutenant Jarvis (page 182), states, that Starkey never did *any duty at all for Payne*, and (page 183), he says

Lieutenant Jarvis was called.

Examined by Prisoner.

Q. What did I allow an extra Quarter-master betwixt the 20th August, to 20th November 1797, that I might have the assistance of Quarter-master Payne in farrying and purchasing troop horses, and at whose expence?

A. I paid Quarter-master Starkey 25*l.* 11*s.* at your expence, but he did not do Quarter-master Payne's duty, as Quarter-master in the troop he (Payne) belonged to.—Quarter-master Payne always did his own duty when he was with the troop, Quarter-master Starkey never did any duty in the troop at all for Payne.

Q. From what time did Quarter-master Payne, do his duty as Quarter-master?

A. I think from the 15th August 1797, he did his own duty, as on that day Quarter-master *Everatt* was discharged.

says that his expence was increased by Colonel Burgoyne's detaining Starkey, as a suspected person, to appear if he chose, on his Court Martial at Edinburgh, in November, 1797, and in (page 184) that he does not consider this charge as a set off against the *savings* of the nine horses alluded to.

* No. 5. Admitted.

† No. 6. Though the amount of this statement is not proved as by the evidence of Quarter-master Payne, (page 185) yet the credit is not disallowed.

‡ No. 7. Upon a survey of the evidences as referred to, and by the following statement, the reader may probably be more disposed to give Colonel Burgoyne credit for a saving than an over payment.

l. s. d.

Government's allowance for 9 horses at 25 guineas each,

		<i>l.</i>	<i>s.</i>	<i>d.</i>	236	5	0
Deduct	{ Paid for 9 horses,	180	0	0	197	14	0
	{ Payne's bill for expences,	10	14	0			
	{ Nicking,	2	0	0			
	{ Part of a bill for drugs,	5	0	0			

Saving to Colonel Burgoyne of 38 11 0
Q. From

Q From what time did Quarter-master Starkey do no duty in any troop?

A. Sometime from the beginning of August 1797, till the December following; he was under an arrest the greatest part of that time, and received his full pay.

Q Had I any particular reason for wishing Quarter-master Starkey to remain until after my Court Martial at Edinburgh?

A. I recollect at a meeting of the Officers your telling him, that you kept him as a suspected person; and as the Court Martial on you was to come on, he might bring forward any charge he had against you, if he choose it.

Q Do you not know my original reason for having an extra Quarter-master, was, that I might avail myself of the assistance of Quarter-master Payne?

A. Yes,

Cross-examined by Prosecutor.

Q Did any other Quarter-master do duty in the troop that Payne belonged to, between 20th August, and 20th November 1797?

A. No.

Q Was Quarter-master Starkey an extra Quarter-master, or had he a warrant?

A. He would have had a warrant, but he could not pay for it, but he paid a small part of it.

Q Was there a 7th Quarter-master in the Regiment from 20th August to 20th November 1797, paid at Colonel Burgoyne's expence, on purpose to enable Quarter-master Payne's services to be used in purchasing horses for the Regiment, or did any Quarter-master do the duty of Quarter-master Starkey?

A. Yes, there was a 7th Quarter-master paid at the Colonel's expence, but not for doing Quarter-master

master Payne's duty for that period, and Quarter-master Searle did Starkey's duty for the aforesaid period.

Examined by Court.

Q. Do you think Colonel Burgoyne would have paid a 7th Quarter-master, if he had not employed Payne to farry and purchase troop horses?

A. I do within the period mentioned.

Q. How can you say with propriety, that Quarter-master Starkey was paid 25*l.* 11*s.* at the expence of Colonel Burgoyne, if the sum was charged against Government in the savings of the nine horses?

A. I don't consider that sum as a set off against the savings in the purchase of the 9 horses.

Q. Do you think there ever would have been the 7th Quarter-master, if Colonel Burgoyne had not availed himself of the assistance of Quarter-master Payne to farry and buy troop horses?

A. I believe there would not.

Q. Has there ever been a 7th Quarter-master employed to do Payne's duty since December 1797?

A. No.

Quarter-master Payne was called.

Examined by Prisoner.

Q. Was there any expence incurred in nicking the 9 horses purchased at Newcastle, and how much?

A. There were 5 or 6 nicked at your expence at Haddington, but I cannot say how many of them belonged to those bought at Newcastle.

Q. What part of a bill of 25*l.* for drugs, which I engaged to pay you was occasioned (to the best of your recollection) by the 9 young horses bought at Newcastle?

A. I

A. I can't ascertain it, as the drugs were for the use of the horses of the Regiment in general.

Q. Were there not more medicines expended on the recruited horses, than the other horses of the Regiment?

A. In general there was.

Q. Was not the bill of 25/. that I agreed to pay you, necessarily incurred for medicines which were not supplied by the Veterinary College?

A. It was.

Q. For what purpose to the best of your knowledge did I pay an extra Quarter-master in the Regiment?

A. To enable me to attend the horses of the Regiment as farrier.

Q. Was it also for the opportunity of employing you to purchase horses for the Regiment?

A. During the time there was an acting Quarter-master, I was employed by you on different occasions to purchase horses.

Q. Have I not on all occasions when you were present, asked your opinion in the purchase of horses?

A. Yes.

Q. Have not all the Officers of the Regiment expressed their approbation on the cures you have performed on the sick horses, as well as for your judgment in purchasing young horses?

It is admitted by the prosecutors.

Cross-examined by Prosecutor.

Q. Was there any extra Quarter-master doing your duty about October or November 1797, when you were employed to purchase horses at Newcastle?

A. I don't know that there was.

Q. Did

Q. Did you ever purchase any more horses for the Regiment than the 9 at Newcastle?

A. I don't recollect purchasing any since.

Q. Could the 9 horses bought at Newcastle have stood Colonel Burgoyne in the expence of 5/. for drugs?

A. I should think that in the bill of 25/. so much as 5/. for those horses could not form part of it.

Q. Were there more than two of the Newcastle horses nicked?

A. I can't say.

Q. Produce the bill for drugs?

A. I gave it to Colonel Burgoyne at Drogheda before he went to England.

Examined by Court.

Q. Who was the Quarter-master you would have called on for any irregularity relative to the horses of the troop you yourself belong to, at the time you acted Quarter-master farrier to the Regiment?

A. Quarter-master Everatt.

Q. Did Colonel Burgoyne usually appoint an extra Quarter-master to do your duty, when he sent you from quarters to purchase horses for the Regiment?

A. Everatt on all occasions while he was in the Regiment acted for me.

Q. Though you have not lately purchased horses, have you not recommended some to Colonel Burgoyne that he has bought on your judgment?

A. Yes, in Dublin.

Quarter-

*Quarter-master John Tydd of the Dumfries Cavalry
was sworn.*

Examined by Prisoner.

Q. Are you Quarter-master of the Dumfries Regiment of Light Dragoons, and are you usually employed to purchase horses for that Regiment?

A. Yes.

Q. Did I ever give you a commission to purchase troop horses for me, at what price and time?

A. At the time your Regiment was quartered at Drogheda, near 12 months ago, I met you in a carriage, and you gave me instructions to purchase six grey horses for you, authorizing me to give ten or twelve guineas more for each horse, than the Government allowance, saying they were for six trumpeters.

Here Colonel Burgoyne requested the Court that a letter from his nephew Sir Montagu Burgoyne might be read, and if not admitted in evidence, it might accompany the other papers received by the Court.—The letter is annexed, [See Appendix No. 8.]

Here

Here Colonel Burgoyne produced the following account.

	<i>l.</i>	<i>s.</i>	<i>d.</i>
No. 1*. Supposed to have been paid Haydon for 20 horses, delivered on 1st October 1798.	420	0	0
No. 2†. Paid Haydon for the keep previous to their being borne on the establishment	23	8	9
No. 3‡. Paid do. for 9 horses, January 1st.	262	10	0
No. 4*. Paid do. for 6 horses March 1st	189	0	0
No. 5†. Paid do. for exchanging 2 horses	20	0	0
No. 6‡. Lost by exchanging a troop horse at Drogheda	21	0	0
	<hr/>		
	935	18	9
The government allowance for 35 horses at 25 guineas each	918	15	0
	<hr/>		
No. 7‡. Loss to the Colonel	17	3	9

Captain

* No. 1. As to the first item of 420*l.* for 20 horses, which the Colonel here *only supposes* to have been paid Haydon, the reader may probably be satisfied about, if he refers to the evidence of Cornet Gregson, (page 19), and that of Lieutenant Jarvis (page 20.)

† No. 2. As to this item of 23*l.* 8*s.* 9*d.* The evidence of this statement rests alone on the affidavits of Haydon, which (upon reference to the opinion of the Judge Advocate General, *by order of the Court*, (page 180) the reader will find to be "*illegal and inadmissible*;" moreover, it is difficult to conceive how 20 horses purchased as by the *date* of the drafts, on the 1st October, and brought on the strength of the Regiment by the Pay-master's books on the *very same day*, (pages 20, & 21), could incur any expence, much less a charge for *keep* of 23*l.* 8*s.* 9*d.*

‡ No. 3. This draft for these 9 horses of 262*l.* 10*s.* is dated January 1st. and it will appear by reference to Pay-master Jarvis's

Captain Webster was called.

Examined by Prisoner.

Q. Did I purchase a horse from you at Drogheda to replace one I sold?

A. Yes.

Q. What did I give for that horse I purchased from you, and what did the other sell for.

A. You

vis's evidence, (page 176) that *three other horses* came on the strength of the Regiment on the 7th January, for which *no payment* appears in his books to Haydon. It may therefore be naturally inferred, that as there was but *six days* interval between the purchases, the payment of both lots was included in this draft of 262*l.* 10*s.* and what is no small corroboration of this suggestion, is, that 262*l.* 10*s.* for 12 horses, is at the exact rate of 20 guineas a horse, (the rate of Haydon's bargain as by the evidence of Cornet Gregson, (page 19) and 10 guineas over, an excess that may be accounted for, by the keeping and nicking, and other incidental expences of the horses from the 1st to 7th January.

* No. 4. This statement of 189*l.* for 6 horses, again only rests on the Colonel's assertion, and Haydon's affidavits.—A draft for 69*l.* 14*s.* 6*d.* for the purchase of 3 *horses*, (one on the 25th February, and 2 on the 1st of March,) does indeed appear by Pay-master's evidence, (page 176) to have been given Haydon, but no draft of 189*l.* for *six horses*, is to be found there; and this further adds to the opinion above given, that the three of these *six* they unaccounted for, are the identical horses included in the former payment of 262*l.* 10*s.*

† No. 5. This statement of 20*l.* for exchanging 2 horses, rests entirely on Colonel Burgoyne's assertion, and Haydon's affidavits.

‡ No. 6. The horse here alluded to at Drogheda, was near 9 months in the Regiment before the Colonel attempted to exchange him, as appears by evidence of Quarter-master Payne, (page 191); it further appears by evidence of Lieutenant Jarvis (page 192), that if Colonel Burgoyne had charged this exchanged horse to Government, he would certainly have been allowed it.

§ No. 7. If the reader is disposed to believe the testimony of the evidences, he may probably be more ready to give Colonel Burgoyne credit for a considerable gain than a loss of 17*l.* 3*s.* 9*d.* as by the following statement.

Government

A. You gave me 25 guineas,; I don't know what the other fold for, but I heard it was 5 guineas.

It being 3 o'Clock, the Court adjourned till to-morrow at 10.

Wednesday 6th November, the Court met pursuant to adjournment.

Lieutenant Jarvis was called.

Examined by Prisoner.

Q. Was a troop horse which I bought from Captain Webster in August last charged to Government?

A. No.

Cross-

		<i>l.</i>	<i>s.</i>	<i>d.</i>
Government allowance for 35 horses, at 25 guineas each,		918	15	0
	<i>l.</i>	<i>s.</i>	<i>d.</i>	
Deduct { Paid Haydon for 20 horses 1st October	420	0	0	
{ Supposed do. for 12 horses 1st January	262	10	0	752 4 6
{ Paid do. for 3 horses 1st March	69	14	6	
Colonel Burgoyne a gainer of		166	10	6

If to this statement be added,				
Amount of saving on Newcastle horses as per note (page 18)	-	-	-	38 11 0
Amount of saving on two horses bought of Capt. Webster, as by evidence (page 15)	-	-	-	15 15 0
Amount of saving on 1 horse bought at Newry, as per evidence (page 15)	-	-	-	11 11 0
There will then upon the credit of the above statements, appear a saving upon the purchase of 47 horses, of	-	-	-	232 7 6

Cross-examined by Prosecutor.

Q. If Col. Burgoyne desired you to charge Government in the public accounts the 20 guineas for the horse purchased from Capt. Webster, would it be allowed?

A. It certainly would be allowed.

Examined by Prisoner through Court.

Q. Was the horse exchanged for Capt. Webster's spoiled by getting up the drain in Drogheda?

A. I don't know, but heard he was.

Examined by Court.

Q. If Col. Burgoyne intended to charge Capt. Webster's horse to Government, do you not think he would have done it before now?

A. I suppose he would.

Q. Was that horse paid for by the Col. prior or posterior to his being acquainted with this charge preferred before the Court?

A. I think since.

Quarter-master Payne was called.

Examined by Prisoner.

Q. Did you sell a black horse for me, that was hurt going up the drain at Drogheda, and for how much?

A. Yes, for 5 guineas.

Q. Do you know whether it was my intention to change that horse, before he was injured?

A. Yes, you so expressed yourself to me, some months before the accident.

Q. Did I tell you that I was ashamed of that horse, and that I would change him at my own expense?

A. Yes, and further, that if you had seen the horse before he was put into a troop, you would not have taken him.

Cross-

Cross-examined by Prosecutor.

Q. Did you hear the Col. say at Loughlinstown Camp, when he was looking at the recruit horses, that he would make Mr. Dale, of whom that horse was bought, change him?

A. I don't recollect.

Q. How long did Col. Burgoyne keep that horse in the Regiment after he had seen him, before he changed him?

A. Some months.

Q. Did not that horse join the Regmt. at Loughlinstown Camp with the augmentation, on or about the 22d November 1798, and in what month was he exchanged?

A. He joined at the time mentioned, and I believe he was sold in the beginning of August last.

John Payne was called.

Examined by Prisoner.

Q. Do you know that I very much wished for Edward Haydon to come to this country to give evidence on this trial?

A. So Mr. Haydon told me, and said it was impossible for him to leave his business, as he had no other person to conduct it, and said that he had explained the business exactly as if he had been here himself.

Q. Do you imagine that, considering the business of his farm, and his contract with Government, that he could have come without utter ruin to his concerns?

A. I think he could not come, as I never saw him have any assistance in his business:—he buys a great many horses for Regiments, but don't know whether he has any contract with Government.

Examined by Court.

Q. As he purchases a great many horses, is he
not

not frequently absent a considerable time from his farm?

A. As he never goes to very distant fairs, he is seldom absent above two or three days.

Here Col. Burgoyne begs leave to observe to the Court, that he did not keep a book to enter regularly the price and expences of horses purchased for the Regiment, nor does he believe it is the general practice.

*Lieutenant Colonel Young Dumfries Fencible Cavalry
Sworn.*

Examined by Prisoner.

Q. Do you know of any regimental book being kept in the Regimt. of which you are Lieut. Col., in which are entered all the horses bought, with their different prices?

A. I know of no such book.

Q. If there was such a book in your Regiment must you not have known it?

A. I must have known it.

Q. Were Quarter-masters warrants usually sold in the Dumfries Regiment of Fencible Cavalry, previous to the orders of Government prohibiting the sale of them?

A. I know of six that were sold, and I received an order from the Secretary at War in England to send an account of the numbers sold and the prices paid, which shewed the sanction of Government to their sale.

Cross-examined by Prosecutor.

Q. Did not that order express that it was the intention of Government that warrants should not be sold?

A. The order did express the sanction of Government to allow the sale, and that we were allowed

to sell the warrants on the recruiting account ; and I think this order was about the latter end of the year 1797.

Examined by Court.

Q. When did the Government in England issue orders for Quarter-masters warrants not to be sold ?

A. I don't recollect.

Here Colonel Burgoyne produced a letter from Messrs. Ross and Ogilvie, annexing the copy of a letter from the War-office in England, signed M. Lewis, which being verified, the Court allows to accompany the proceedings.—[See Appendix No. 9.]

Lieutenant Jarvis was called.

Examined by Court.

Q. Has Colonel Burgoyne put money in his pocket by the feed of the horses of his Regiment, or is he out of pocket, or does the account balance, as far as your knowledge goes ?

A. From the savings of feeding I conceive him a considerable gainer, but upon the extra regimental expences, I believe in the whole he is out of pocket.

Q. Do you mean to say that Colonel Burgoyne is a loser on the whole, taking in every saving he has made ?

A. I don't know *.

The

* The following questions and answers were entered on the proceedings, but afterwards ordered by the Court to be erased, and the above substituted in their place.

Lieutenant Jarvis examined by Prisoner.

Q. What sum appears on the face of your book that I have overted the Regiment ?

A. There appears on my book 900*l.* overfed by you.

Cross-

The Evidence in support of the Defence on the first Charge being here closed, the Court proceeded to the Defence of the second Charge.

Colonel Burgoyne read a statement in support of the Defence of the second Charge, which is annexed.

CHARGE II.

A charge is brought against me for the deficiency in the supply of oats, from the 16th August 1798 to November 24th in the same year. On the 16th of August there appears to be an order entered in the orderly book, directing that sixteen horses should be fed at 3-4ths of a peck per day, and the rest, to the number of about forty, should have their allowance of hay and straw and half a peck of oats per day, and be kept in the yard to run in and out of the stable. I acknowledge to have given that order, because there were not sufficient hands consistently with the drilling duty, and I wished to save part of the feed to give when the horses work became greater. They are allowed by Cornet Gregson to be in good order; and he says, that had they been his own horses, he would not have given them more oats. But he swears, that these forty horses, together with twenty others, which arrived on the first October, were never fed at more than half a peck

O 2

per

Cross-examined by Prosecutors.

Q. Did not Col. Burgoyne take from the hands of Lieutenant Banas, a former Pay-master, the sum of 1050*l.* or upwards, from the savings of horses feed; and also from the hands of Captain Webster (a prior Pay-master to him) upwards of 500*l.* from the savings of horses feed?

A. To my knowledge Col. Burgoyne received the sum of 1050*l.* from Lieutenant Banas, and also upwards of 500*l.* from Captain Webster, from savings of horses feed.

per day. Being ordered to join my Regiment with the greatest dispatch on the landing of the French in Ireland, I did not think of giving any further orders concerning the feeding, but concluded that the oats saved in the yard would be given to them when they worked, as I gave particular orders to my bailiff to deliver whatever oats should be demanded by Cornet Gregson. Cornet Daniel remembers the above order being given, and says that a considerable expence was incurred by the horses which went recruiting to the different market towns, as they were always fed in those places without any diminution of their food at home, which extra feed was always at my own expence. John Payne, my servant, late a Quarter-master in the E. L. Ds. and a man of excellent character, swears that it was so understood by Wield; and on Cornet Gregson's saying that the horses looked thin, he asked him why he did not give them more oats, for he knew that Wield, the Colonel's bailiff, had orders to deliver whatever quantity he should demand, and that Wield informed him (John Payne) that he had absolutely given Cornet Gregson a larger quantity. Serjeant Ruggles, of the E. L. Ds. swears, that he was employed to receive and deliver the oats to the horses in the yard, and that after the first Sept. he always gave them 3-4ths of a peck per diem, and never less to the best of his recollection. Serjeant Purnell swears, that he received and gave out the oats to the twenty horses that arrived on the first October; and that he never gave them less than 3-4ths of a peck, but that he sometimes gave more: if necessary, more evidences can be brought to these points.

It therefore appears that the under feeding, from the 14th August 1798 to 24th October 1798, is the difference between three quarters of a peck and 8lb. of oats, which is one pound per ration, on

5002 rations, which at $37\frac{1}{2}$ per bushel, makes
156 bushels or thereabouts at 3s. per bushel, and
amounts to

£. 23 8 0

The under-feeding on 40 horses,
from 14th August to 30th August
on 720 rations, the difference be-
tween half a peck and three quar-
terns makes 26b. 1p. 1q. which
at 3s. per bush. amounts to

3 18 11

Total of underfeed

27 6 11

Government allowance for 71 horses,
under the command of Cornets
Daniel and Gregson, from 25th
October to 13th Nov. at 8lb. per
horse per day is 299 bushels, which
at 3s. per bushel is

44 17 0

Allowed Cornet Daniel by Colonel
Burgoyne, for the above 71 horses,
the above period, at one peck per
horse per day, which is 355 bushels,
which at 3s. 6d. per bushel, a-
mounts to

62 2 6

Deduct Government allowance

44 17 0

Over-feeding

17 5 6

Allowed by Colonel Burgoyne for
sick horses at Liverpool

1 1 9

To be paid by Do. to Fisher, at Li-
verpool

21 15 0

To be paid by Do. to Pay-master

7 18 1

30 14 10

1798 Nov.

1798 November 12th.	l.	s.	d.
312 stones hay, at 1s.	15	12	0
145 bushels oats, at 3s.	21	15	0
43 strues straw, at 6d.	1	1	6
Trussing 3 load hay, at 2s. 6d.	0	7	6
	<hr/>		
	38	16	0
	<hr/>		

SIR,

By my books, and the Ship-master's receipt for the above, is the expence attending the horses you mentioned to me.

Signed, EBEN. FISHER.

Colonel Burgoyne's charge to Government from Nov. 14th to 24th			
Nov. 744 rations, at 8lb. per ration,			
makes 154b. 2p. 0q. which at 3s.			
amounts to	23	3	6
Deduct	15	12	2
	<hr/>		
Over-fed in that period	7	11	4
Add	17	5	6
	<hr/>		
	24	16	10
Expended in extra feeds in recruiting in market towns	2	10	1
	<hr/>		
Total,	£. 27	6	11
	<hr/>		

The Court will, I hope, observe, that I have only charged 3s. per bushel, though the market price in Essex at that time was 3s. 6d. and I am charged that price and more by my officers. I beg leave to make a remark on the memorandum, which has been brought before you by the Paymaster

master, in which I desire that less might be charged in the next account, because I found that there was an overcharge in this account. I certainly did think so, but now find myself much mistaken in comparing the expenditure with the charge to Government, in which I was assisted by the Paymaster; he omitted to remind me (inadvertently I am sure, as I cannot suppose him capable of misleading me) of what was due for oats during the passage from Liverpool, amounting to 21*l.* 15*s.* 0*d.* and of a sum which he had himself paid for oats for these horses at Loughlinstown camp.

I do not think it necessary to say much in vindication of feeding the horses according to their work, which must surely be for the good of the service; provided that all forage charged to Government be actually given to the horses. I wrote a letter to the War-office on this subject in March 1798, and not receiving any orders to the contrary, I conceived myself justified in feeding them in this manner.

As to turning out horses to grass contrary to the regulation, I had never seen the orders, as they were never delivered to my Adjutant. I wrote for leave to turn them out on the 4th, and did turn them out on the 5th June. There is clearly a mistake in the Adjutant-General's letter, which should have been dated the 7th June. On receiving it I ordered the horses to be taken up as soon as I could, without injuring the farmer, and obtained leave to turn out a large quantity of horses, which were accordingly done. I could have no advantage in turning the horses to grass, and the Quarter-master Farrier will inform you whether they did not require grass, and whether I could have taken more pains to make a bargain for myself.

Right

Right Hon. Colonel Lord Ancram, of the Mid Lothian Fencible Cavalry, was sworn.

Examined by Prisoner.

Q. If from particular circumstances any of the troop horses should at any one time perform a great deal of work, and at another time do very little work; does not your Lordship think it is for the good of the service to feed them according to their work, provided that all the oats charged be expended?

A. Most undoubtedly I do.

Lance-Corporal Tippins, sworn.

Examined by Prisoner.

Q. Were you in Essex with some of the troop horses of the Regiment, between the 16th August and the 25th October 1798?

A. Yes.

Q. Relate to the Court what you know about the feeding of the horses during that time?

A. I was sick at that time, and did not attend to the feeding.

Q. Did you not give some information to Captain Graham concerning the feeding of the horses?

A. Yes, about horses that came away since that time.

Q. At what time did you first give the information to Captain Graham, and what was it?

A. It was at Drogheda, I don't remember the time I told him the horses in Essex were fed for the first week at $\frac{1}{4}$ of oats, and from that time forward they were fed with $\frac{1}{4}$ of oats $\frac{1}{4}$ bran, and $\frac{1}{4}$ of chaff, sometimes heaped and sometimes struck.

Cross-examined by Prosecutor.

Q. You said in your first answer that you did not attend to the feeding in Essex at a particular time, explain

explain to what time your last answer applies, was it after you recovered from your sickness, and after the 25th October?

A. Yes, and it was after the 25th October.

Q. Out of what stores were the oats, bran and chaff taken?

A. We had it from the Colonel's stables at Mark-hall.

Q. Was that mixture of oats, bran and chaff, mixed up in one general store or bin, and served out by $\frac{1}{2}$ measure?

A. Yes, I believe it was.

Examined by Court.

Q. Did you give information to Captain Graham relative to the feeding of the horses in Essex of your own accord, or was it in consequence of his questioning you on the subject?

A. It was in consequence of Captain Graham's enquiries.

[Here Captain Graham admits it, and begs leave to submit to the Court, that he sent for the witness, and every other person that could give information to the Court on the charges preferred.]

Daniel Deane, private, was Sworn.

Examined by Prisoner.

Q. What did Corporal Tippins say to you in regard of the information he had given Captain Graham, relative to the feeding of horses in Essex?

A. Tippins told me that he had said more than he should say to Captain Graham on that business, and that he would go to Captain Graham to promise him his discharge, for that if Colonel Burgoyne

goyne got the day, he should lead a devil of a life.

Q Did Tippins intimate to you that he had said more than the truth to Captain Graham?

A. The words he expressed was, that he had said more than he should say, and I understood by that, that he meant that he had not told the truth.

Cross-examined by Prosecutor.

Q Were you in Essex at the time Tippins was there?

A. I was.

Q Upon your oath, did you never tell Captain Bund at Drogheda, that the horses were fed on oats, bran and chaff, at Essex?

A. I told Captain Bund with a $\frac{1}{4}$ of oats, $\frac{1}{4}$ of bran, and a sufficient quantity of bran and chaff.

Q Do you mean a $\frac{1}{4}$ of each, or a $\frac{1}{4}$ of mixture?

A. A $\frac{1}{4}$ of each.

Examined by Prisoner through Court.

Q Were not the horses fed differently at different times?

A. Sometimes they were, but I can't say what quantity.

Q Was there bran given them when they had the strangles?

A. There was.

Q Were the horses fed high, before and during the march?

A. They were.

Serjeant Ruggles was Sworn.

Examined by Prisoner.

Q Were you not in Essex with some of the troop horses in August 1798?

A. Yes.

Q Did

Q. Did you not feed the horses in the yard, and what allowance of oats, hay and straw had they?

A. Yes, I fed them at $\frac{3}{4}$ of oats, and 18lb. of hay per day.

Q. Do you mean to say that they had $\frac{3}{4}$ of a peck of corn the whole time, or only after the 1st September 1798?

A. After 1st September.

Q. Of whom did you receive the oats?

A. I received them from one Wield, at your farm.

John Payne was called.

Examined by Prisoner.

Q. What orders did I give Wield my bailiff in your presence as to the quantity of oats that should be demanded by Cornet Gregson for the troop horses in Essex?

A. I never heard you give Wield orders, but I understood from him that he had your directions to give Cornet Gregson whatever oats he might demand for their horses.

Q. Did Cornet Gregson inform you that the horses looked thin, and wanted more oats, and what was your reply?

A. Yes, I replied whatever oats he wished for, the bailiff would give him, and if he objected to it I would speak to him, as it was my master's desire, but Wield told me he would let the Cornet have whatever he wished for.

Serjeant Purnell was Sworn.

Examined by Prisoner.

Q. Were you in Essex at the time twenty horses arrived from Haydon the dealer, about the 1st October 1798?

A. Yes.

A. Yes.

Q. Did you feed those horses, and what quantity of oats did you give them?

A. I did, part of the time, I gave them three feeds a day, at one-fourth each time.

Q. Did you ever give them more than three feeds a day?

A. According as they worked, sometimes they had more, but three feeds was the regular allowance.

Q. What part of the time between the 1st and 25th October?

A. I can't specify particularly, for I was now and then absent on other duty.

Q. Do you think you were absent for more than three or four days during that time?

A. No.

Quarter-master Payne was called.

Examined by Prisoner.

Q. Do you act under the denomination of Quarter-master Farrier to the Essex Light Dragoons?

A. I do.

Q. Did you advise me to turn out the horses to grafs, when the Regiment was quartered at Drogheda, and for what reason?

A. There were some horses lame, and some unhealthy, and as I thought herbage would be of use to them, I recommended to you that they should be put to grafs.

Q. Could I derive any pecuniary advantage by the horses being at grafs?

A. No.

Q. As soon as I understood that regular orders would be given by Government for turning out horses to grafs, did not I take the first opportunity to take them up, consistent with my agreement with the farmer?

A. Yes, to the best of my knowledge.

Q. When

Q. When I was ordered to turn them out again, could I have taken more pains to make a bargain myself, than I did for the public?

A. I don't think you could.

Q. What day were the horses first turned out to graze?

A. In the early part of June.

Lieutenant Jarvis was called.

Examined by Prisoner.

Q. What expences were incurred by the augmentation horses at Loughlinstown Camp before the 24th November 1798, and by whom must this expence be paid?

A. 16*l.* 18*s* 5*d.*, and the expence must be paid by you.

Q. Is not the sum of 7*l.* 18*s.* 1*d.* for oats which makes part of the charge of 16*l.* 18*s.* 5*d.* included in the recruiting account?

A. Yes.

Cross-examined by Prosecutor.

Q. Do you mean that the sum of 16*l.* 18*s.* 5*d.* is ultimately to fall on Colonel Burgoyne, and that he is not, nor ever will be reimbursed by Government in the public accounts?

A. He charged the whole account of which this forms a part to Government and of course *is reimbursed*.

Examined by Court.

Q. Is Colonel Burgoyne in or out of pocket, or does the accounts balance relative to the augmentation, as made up to the 24th of November 1798, within your knowledge?

A. I have not seen Colonel Burgoyne's account, and therefore can't answer that question.

It

It being 3 o'Clock, the Court adjourned till to-morrow at 10.

Thursday 7th November, the Court met pursuant to adjournment.

Private Deane was called.

Examined by Prisoner.

Q Were you in Essex in September 1798?

A. I was.

Q Do you know how the troop horses then were fed?

A. At three feeds a day, at $\frac{1}{2}$ of a peck each feed for each horse.

Q Was you with the twenty recruited horses that arrived at Markhall the 1st October 1798, and had they less than three feeds?

A. I was there and they had not less than three feeds a day.

Q Had the horses always their allowance of hay and straw, namely 18lb. of hay, and 6lb. of straw, and had they ever more than that quantity?

A. They had that allowance, but can't say whether they ever had any more.

Cross-examined by Prosecutor.

Q What quantity of oats did the horses kept at Swain's and Saltmarsh's barns get?

A. I can't pretend to say.

Q How do you know that the horses had their allowance of hay and straw?

A. I used to see it weighed.

Q Do you know if the horses at Swain's and Saltmarsh's barns were kept in a stable, or run in

in a straw yard, and had their full allowance of hay and straw?

A. In a stable, but can't say as to hay and straw.

Cornet Daniel was called.

Examined by Prisoner.

Q. What charge did you make to me for oats for troop horses, between 24th October, and 13th November 1798, on the march from Markhall to Liverpool?

A. 62*l.* 2*s.* 6*d.* British.

Q. How many bushels did you charge and how much per bushel?

A. 355 bushels at 3*s.* 6*d.* per bushel.

Q. What did you pay for oats for sick horses at Liverpool to 24th November 1798?

A. 1*l.* 1*s.* 9*d.*

Q. Was a quantity of hay, straw and oats put on board at Liverpool for the troop horses?

A. Yes.

Q. How many horses did you ship at Liverpool, and how long were you on your passage?

A. We shipped 71, and I think the horses were eight days on board.

Lieutenant Jarvis was called.

Examined by Prisoner.

Q. How much is my expence for oats for the augmentation horses, from the time of their landing from Liverpool to the 24th Nov. 1798?

A. 7*l.* 18*s.* 1*d.*

Q. What number of rations were there on the augmentation horses, between 14th August and 24th October 1798?

A. 5002 rations.

Q. What

Q. What is the weight per bushel of the oats charged to Government during that period?

A. $37\frac{1}{2}$ lb.

Q. What is the difference between $\frac{1}{4}$ of a peck of oats and 8 lb. according to that weight?

A. There is one pound difference.

Q. How many bushels does 1 lb. on 5002 rations make?

A. 156 or thereabouts.

Q. What price per bushel have I charged Government, and what do 156 bushels come to?

A. Three shillings, and the amount of 156 is 23l. 8s. od. British.

Q. According to this calculation, what does the under-feeding on 40 horses, for 720 rations amount to between $\frac{1}{2}$ a peck and $\frac{1}{4}$, from 14th to 30th Aug. 1798?

A. 26 bushels, $1\frac{1}{4}$ peck, the value of which is 3l. 18s. 11 $\frac{1}{2}$ d.

Q. What is the Government allowance for 71 horses, at 8 lb. per horse amount to, between 25th October and 13th Nov. 1798, as to quantity and price?

A. 299 bushels at 3s. 0 $\frac{1}{2}$ d. is 44l. 17s. od.

It being 3 o'Clock, the Court adjourned till to-morrow at 10.

Friday 8th November, the Court met pursuant to adjournment.

Lieutenant Jarvis was called.

Examined by Prisoner.

Q. From the account you hold in your hand, what does the balance appear to be, from the 14th August

August to 24th October 1798, between the over-feed and under-feed of oats?

A 2*l.* 10*s.* 1½*d.*

Cross-examined by Prosecutor.

Q Do you mean to say, that the calculation and account of feeding, which you have given to the Court, is a just account of the real expenditure of forage, or is it a statement made from Colonel Burgoyne's instructions to you, or who furnished you with the items, and when?

A. It is a statement made at Colonel Burgoyne's request; the calculation is correct, according to the periods and quantities furnished me by the Colonel.

Q Did the six Carlisle horses arrive at Ayr, after the Regiment had received orders for the augmentation, and were those horses immediately on joining returned as part of the recruited augmentation?

A. Yes.

Here the Prosecutors beg leave to lay before the Court their statements on feeding, for the inspection of the Court.—[See Appendix No. 10.]

Sergeant Ruggle called.

Examined by Prisoner.

Q What number of troop horses did you feed in the new farm-yard at Mark-hall, between the 16th August and 25th October 1798?

A. Thirty-two.

Cross-examined by Prosecutor.

Q Were those horses in the straw-yard any part of that time?

A. Yes, they were, for they were in and out.

P

Hon.

*Hon. Colonel Napier, Comptroller of Army Accounts,
sworn.*

Haydon's receipts, accounts and vouchers being produced and shewn him, he was asked if he would receive them as vouchers in the public accounts of the army, says, that he would admit those documents as fully sufficient to substantiate the disbursements.

Examined by Prisoner.

Q. Should you not still be more inclined to take such vouchers, if the signature of the horse-dealer was sworn to?

A. If I conceived any doubt of the receipts, I might be inclined to resort to that.

Examined by Court.

Q. Would you, Sir, reckon such receipts completely satisfactory, even if information was given you of a fraud, on the alleged price of horses?

A. I have no discretionary power, the charges are admitted in the contingent account by the standing orders, and verified and chequed by the muster rolls.

Here Colonel Burgoyne produced a letter from the Hon. Col. Napier, which was vouched by him, and is annexed to the proceedings.—[See Appendix No. 11.]

Deane was again called.

Examined by Prisoner.

Q. What number of troop horses did you feed in Mark-hall stables, between the 16th August and 30th September 1798, before the 20 recruited horses arrived?

A. To

A. To the best of my recollection eight.

Cross-examined by Prosecutor.

Q. Do you know how the horses were fed, and how many at Vicarage, in New Farm, during that period?

A. I can't say.

John Payne called.

Examined by Prisoner.

Q. How was the horses fed at Mark-hall that joined the Regiment under Cornet Sharpe?

A. They were fed at first with clear oats, and then with a $\frac{1}{4}$ of oats, and $\frac{1}{4}$ of beans, and a sufficient quantity of bran and chaff, and the hay was unlimited.

Q. Had they more oats than $\frac{1}{4}$ for some time before they left Mark-hall?

A. They had.

Q. Do you know my reason for ordering them to have bran and beans?

A. From Mr. Haydon's recommendation for the good of the horses, and some having the strangles, and some of them swelled legs.

Q. How were they fed on the march, from Mark-hall to Liverpool?

A. With a peck of oats for each horse per day, except one wet day that I could not get good oats, and I made up the quantity with beans.

Joseph Chace, a private, sworn.

Examined by Prisoner.

Q. Did you feed any troop horses in Mark-hall stables the end of 1798, and beginning of 1799, and how were they fed?

A. Yes, they were fed three times a day, with a $\frac{1}{4}$ of oats each time.

Cornet Daniel was called.

Examined by Prisoner.

Q. What was the price charged me for oats for troop horses by Cornet Gregson, and by Sergeants Purnel, Ruggles, and Ford?

A. Cornet Gregson charged 3s. 9½d. and the others charged 4s. per bushel.

Q. Were those charges on the march, or in quarters?

A. On the march.

[The evidence in support of the defence of the second Charge being here closed, the Prisoner read a statement of the third Charge, which is annexed:]

III. CHARGE.

It has already been proved by two respectable witnesses, that the horses I gave were on every account preferable to those which I took, and which were found fault with by General Gwynne for being too heavy for Light Dragoons. The Regiment then could not be injured by the exchange, except that two horses were taken from the strength, at a time when they were wanted.

When I sent them with the recruiting party, who, if they had not rode these horses, must have rode others; (and the Adjutant says, they were a convenience both to the Colonel and the men). I say, when they left the Regiment we were compleat in horses, and if an augmentation had not been ordered, five of these recruited horses must have been kept at my expence probably for many months; but in consequence of my desire, the Adjutant wrote me word that he had replaced the two I took with two of the recruited horses: if there was any mistake, I was not to blame. Let us enquire whether the Regiment came to this country short of horses: in the first return after landing in Ireland, it appears that there were

were present 226 men, including non-commissioned officers, and 209 horses, so that we had only 17 men more than horses; whereas, by the regulation of the British Establishment, we should have 30 men dismounted. But my Prosecutors say, that these two horses, kept entirely for my use, were borne on the Establishment. How was I to blame? When the augmentation arrived at Loughlinstown Camp, I discovered that though the Adjutant had informed me that they were replaced, it had not been done. Had I not then returned them, I should have made a false return. The only reparation I could make to Government was to charge only two Officer's horses for myself instead of four, which I had an undoubted right to charge, as I have always done in the same case—I was on the recruiting service. Sir Ralph Abercrombie refused me leave of absence, but the Duke of York, knowing how necessary my presence in Essex was to augment the Regiment, gave me leave to remain there to recruit. Evidence shall be brought to shew whether I met with success in recruiting, and whether I did not make good use of the horses which I charged. If a mistake was made with the Regiment by returning me *absent by leave*, instead of on the *recruiting service*, I am no more to blame than for the mistake committed in not immediately replacing the horses, which I took at the augmentation in 1795, when my horses were charged and allowed. I was then returned *absent by leave*, though I was on the recruiting service: I certainly had an advantage, by saving 8s. 1½d. per day on each of the two horses, from the 24th June to the 24th November, which amounts to 12l. 2s. 3d. I never sought this advantage, and I believe that it is proved that I suffered more loss by the forage account, than I gained by this acquisition. I beg leave to remark, that it is somewhat extraordinary, that the leader of this prosecution should endeavour to prove,

prove, that I had no right to charge my horses on the *recruiting service*, when he directed the Pay-master to charge four horses for him when he *was for his amusement* in England. The Pay-master had absolutely charged them, but I insisted on an alteration being made; which circumstance, I have good reason to believe, is one of the provocations that occasioned this Court Martial. It is true, that I gave each of the men who rode these horses one guinea; because as long as a man behaves well, his horse is never taken from him without his consent.

Captain Webster was called.

Examined by Prisoner.

Q. Produce your return of horses on the 21st June 1798, and say whether the Regiment was compleat in horses at that time?

A. Yes, they were compleat.

Q. What was the number of men and horses present with the Regiment, the first time you made a return, after the landing in Ireland?

A. The return was dated the 17th September 1798, and is as follows:

Serjeants 19—Trumpeters 5—Privates fit for duty 198—Sick 4—Total 226.

Horses.—Present 206—Sick 3—Total 209.

Q. How many dismounted men should there then be as allowed for our Establishment, by the British regulation?

A. Thirty men.

Q. When I recruited for the first augmentation in 1795, how was I returned?

A. Absent by leave.

Cross-

Cross-examined by Prosecutor.

Q. Was there not an order from the War-office in England, dated 20th June 1798, for the augmentation of the Regiment?

A. There was an order on the 15th June 1798, to augment the Regiment to one sergeant and ten private men, and ten horses per troop, and it was to be borne on the strength of the Regiment the 25th of that month, and a letter of the 20th June confirmed that order, with the alterations of a corporal.

Examined by Court.

Q. Was it after the orders were issued for the augmentation that Colonel Burgoyne took the two curricule horses?

A. It was after.

[Here Colonel Burgoyne produced a letter from General Sir Ralph Abercrombie, dated 30th July 1798, which was admitted by the Prosecutors, refusing him leave of absence to compleat the augmentation.—See Appendix, No. 12.]

[Here Colonel Burgoyne produced the copy of a letter from Colonel Brownrigg, which John Newcommen swears he copied from a letter signed Robert Brownrigg, and which he swears he done (as he believes) by Colonel Burgoyne's orders, granting him leave of absence.—[See Appendix, No. 13.]

The third Charge on the Defence being here closed, the Prisoner read a statement of the fourth Charge, which is annexed :

IV. CHARGE.

IV. CHARGE.

As only one instance has been produced of any thing due to the men being withholden from them, I shall only refer the Court to the evidence of Edward Saltmarsh, and prove what my conduct has generally been concerning the recruiting service,

Captain Webster was called.

Examined by prisoner.

Q. Have you ever told me you were surprised that I was so extravagant in my recruiting expences?

A. Yes, I have.

The defence on the fourth Charge being here closed, the prisoner read a statement of the 5th Charge which is annexed.

V. CHARGE.

No such order as that alluded to exists; my Lieutenant Colonel puts that interpretation on it, because no work was done by my order but by those non-commissioned officers, and that I have refused to pay for work ordered by the officers in my absence. I will prove that work has been done by my order, and that I had very good reason for refusing to pay bills brought to me, because I knew them to be false, and the signatures of many of them a direct forgery.

County Kildare, } James Doyle came before me
to wit. } this day, and voluntarily made
----- } oath on the Holy Evangelist, that
Cornet Gregson, of the Essex Cavalry, employed this
deponent to mend boots, and sundry other repairs,
on account of said regiment, and that deponent's
bill for said repairs amounted to the sum of 5*l.* 15*s.*
Irish

Irish money, which said sum this deponent by order of said Cornet Gregson, received from Sergeant Jennings at five sundry payments; and deponent doth swear that he never received any further sum on any account whatsoever from the parties above-mentioned, and this deponent having this day seen a bill, purporting to be his bill, amounting to 6*l.* 13*s.* 6*d.* British, or 7*l.* 4*s.* 7*dh.* Irish, signed with his name, which this deponent denies to be his bill, furnished by him, or his hand-writing, and deponent swears that said bill so produced for 6*l.* 13*s.* 6*d.* English money, or 7*l.* 4*s.* 7*dh.* Irish, is an absolute forgery. Sworn before me, one of his Majesty's Justices of the Peace, for the County Kildare, this 13th day of September, 1799.

(Signed) JOHN MONTGOMERY.

(Signed) JAMES DOYLE.

I Thomas Stanton, do declare that the bill now shewn to me, amounting to 5*l.* 7*s.* 3*d.* was not made out by me, that I never repaired fifteen pair of boots, that I never charged the prices mentioned, but only six shillings and six pence, Irish, for each pair, that I asked seven, but Lieutenant Clarke would not give it me, and that I never received the sum of 5*l.* 7*s.* 3*d.* as charged for boots. I also declare that I made shoes by Lieutenant Clarke's order, for which he generally paid me seven English shillings, and a few seven shillings and sixpence, always deducting one shilling in the pound for poundage, that I cannot swear whether the signature of Thomas Stanton is my hand-writing. (Signed) THOMAS STANTON.

August 31st, 1799.

Many more reasons of this sort exist as to the regulation alluded to by my prosecutors; my Adjutant has sworn that he has never received them, I certainly never saw them till I sat on Sir Thomas Chapman's

Chapman's Court-martial. The only disobedience that I have ever shewn to them, even through ignorance, was employing two corporals for three days, previous to the 24th May, at which period they were reduced by their own consent. After what I have stated in my defence, it cannot be imagined that I had any pecuniary interest in employing them; those men have been by no means lost to the service, as they have always taken their turn of duty when they were wanted, they never hired any person to do their duty. When I left Loughlinstown Camp, the appointments were in good order, except the collar reins, and a few articles which I expected from England; the workmen I left could have kept them in order instead of giving 6s. 6d. per day to a town saddle. The Lieutenant Colonel says that from a respect towards me, he complained to General Needham, of the orders which I had given; but I confess that I should have thought it not only more respectful, but more kind if he had informed me of the necessity of these repairs. As to the new appointments I was ordered by the War-office in London not to send them. I could have no advantage whatever in having the work done cheap before the Regiment was on the Irish Establishment, having no advantage of off reckonings, being only an agent for Government, but thought it my duty to be as economical as possible.

Lieutenant Colonel Daly, one of the members of the Court, was sworn.

Examined by Prisoner.

Q. At the time Colonel Sir Thomas Chapman's Court-Martial was sitting, did you hear me declare that I never saw the orders from the Adjutant-General's office of this establishment, dated 13th February, 1798?

A. During

A. During the trial of Sir Thomas Chapman, upon some reference been had to a General Order, I heard you say, that you might have been in a scrape without knowing it, as you had never seen those orders, nor did not know of them, or words to that effect.

Cornet Daniel was called.

Examined by Prisoner.

Q. Look at those bills, and inform the Court whether I have allowed repairing work to be done by other persons, than men belonging to the Essex Light Dragoons, and at where?

A. Yes, at Drogheda, to the amount of 1*l.* 8*s.* 1*d.* At Dundalk, 1*l.* 4*s.* 8*dh.* and I paid 11*s.* 4*dh.* besides to a man of the Suffolk militia, and 7 or 8 shillings to a fadler.

Cross-examined by Prosecutor.

Q. Were any of those bills you allude to for repairs incurred at Loughlinstown?

A. No.

Q. Were the repairs done at Drogheda when Colonel Burgoyne commanded, or when Lieutenant Colonel Scudamore commanded?

A. Part of one and part of another.

Examined by the Court.

Q. Did Colonel Burgoyne give you a verbal order, on leaving Loughlinstown camp, not to permit any repairs to be done except by the men of the Regiment?

A. There was written orders for it.

The defence of the 5th Charge being here closed,
the

the prisoner read a statement of the 6th Charge, which is annexed.

VI. CHARGE.—1st INSTANCE.

The 6th Charge generally accuses me of arbitrary and unofficer-like conduct to the commissioned and non-commissioned Officers of the Regiment, and it appears very extraordinary, that among so many persons of different tempers and dispositions, that should only one person (Cornet Ellis) appear to confirm this charge, especially as in supporting the discipline of the Regiment I must have given offence to some. The first instance endeavoured to be proved is suppressing and contemptuously treating the proceedings of a Court of Enquiry to investigate the claims of certain persons; I did not think that a private letter, written in confidence to a young man whom I have patronized in the kindest manner, would have ever appeared before this Court. That I laughed heartily it is most true, but that was only a private remark to my young correspondent, he was certainly at liberty to deliver the message to the Major, and the event has proved whether I was right in refusing to pay for the posts and rings, as the Pay-master says that they were not refused to be paid for by Government. In this business my prosecutors do not seem to have had their *usual* information from the Paymaster. That Government had agreed to pay for them, is a matter of great surprise to me, as they were certainly an idle expence of the Major's, who never made use of them at Newcastle, where they were left on account of their great weight, and the Court will be surprised to hear that the carriage of these heavy posts and rings from Lincoln to Newcastle, form one of the items in Hawkins's unreasonable demand upon me; a few light sticks and rings, much better for the purpose might have been purchased for forty shillings,

shillings, and carried from place to place at a small expence. I believe that it will appear that I have complied with the opinion of the Court in every particular, except in Captain Bund's demand of two pounds, for carriage of baggage when the troop was removed, not for my convenience, but by the orders of the General. If Captain Bund had mentioned it to me since the Court of Enquiry, I should have applied to Government on the subject, but I find this complaint was reserved for a charge. He did not, he says, care much on his own account, but his anxiety was excited for the men who had claims.—Who are those men? To Noah I have paid the 2*l.* 2*s.* as I thought he had a right to it, though I paid him at the time that his conduct was so infamous, that at the desire of Captain Bund and his troop I trumpeted him out of the Regiment. I might have saved my two guineas, but in no situation have I ever turned a deaf ear to a well-founded demand of one of my men; but there is White, who had a claim for a pair of breeches; they were lost, if lost at all by the clerk of the troop; the Court therefore only recommended White to the Colonel's consideration, I have given White another pair, and will confess on what principle, I wished to be able to say that there was not a dissatisfied man in the Lieutenant Colonel's troop. As to Quarter-Master Searle's demand of 1*l.* 1*s.* for gun-powder, I was told he was in debt to the clerk of the troop. I have never seen Quarter-Master Searle since, or has any demand been made to me for that sum.

Serjeant Major Alder was sworn.

Examined by Prisoner.

Q. How long have you been in the regiment?

A. Between five and six years.

Q. What is your opinion concerning my conduct towards

towards the non-commissioned officers, and what is my general character in the Regiment, as to my treatment of them and the men?

A. As to myself, I must say you always treated me well, I never heard the generality of them, to the best of my knowledge, complain.

Examined by Prosecutor.

Q. Upon your oath, did you complain or say any thing of the Colonel's conduct towards you, to Captain Bund in the streets of Drogheda, the day the Colonel went from quarters, and when he gave you a guinea?

A. Not to the best of my knowledge.

Q. Have you, on your oath, directly or indirectly, been promised by Colonel Burgoyne or any other person, any advancement of rank to Cornet, or a Quarter-master, since this Court Martial has been talked of?

A. No.

Q. Have the non-commissioned officers ever been dissatisfied in not having had their regular allowance of gloves, at one pair per year, of horse collars, at one per year, of clothing, or otherwise?

A. I have heard some complaints about gloves, but as to the others, I can't say.

Examined by Court.

Q. Was the Regiment ever asked on parade by a General Officer, if they had any complaints to make, at what time were they asked, and did they make any complaint?

A. Yes, at Naas, within these last two months, and I did not hear any of the men quartered there prefer any complaints.

Q. Do you think it was in consequence of Captain Graham's questioning the men about their gloves, that any complaints were made?

A. I really

A. I really can't say.

Q. Could Colonel Burgoyne have acted in an arbitrary and unofficer-like manner to the non-commissioned officers without your knowledge.

A. I don't know that he could.

Serjeant Stamp was sworn.

Examined by Prisoner.

Q. Are the non-commissioned officers and privates of the troop to which you belong well satisfied, and have they lately declared their strong attachment to me?

A. I never heard otherwise.

It being three o'clock, the Court adjourned till to-morrow at ten.

Saturday, 9th November, the Court met pursuant to adjournment.

Serjeant Stamp was called.

Examined by Prisoner.

Q. Do you know of any dissatisfied non-commissioned officers or privates in the troop to which you belong?

A. Not that I know of.

Cross-examined by Prosecutor.

Q. To what troop do you belong?

A. Colonel Burgoyne's troop.

Q. Have you ever had the regular allowance of gloves,

gloves, of one pair per year, since the Regiment had been raised.

A. No.

Q. How many pair have you had?

A. I have had three pair, and have been in the Regiment four years and a half. It has been raised near six years.

Q. Do you know Col. Burgoyne's hand-writing?

A. Yes.

Q. Did Colonel Burgoyne issue an order the 2d of September last, saying, "That having discovered that each man had a right to one pair of gloves per year, and desiring that Commanding Officers of troops should give in the names of those who had any claim for gloves?"

A. Yes.

Q. Have you been examined by Colonel Burgoyne, or any other person in his behalf, in private, as to the answers you were to make to the different questions to be put to you before this Court.

A. I was asked some questions by Colonel Burgoyne, if I could remember things that happened before General Grosse, and if I knew of any dissatisfaction in the troop I belonged to, and I answered Colonel Burgoyne what I have told this Court.

Examined by Court.

Q. Did Colonel Burgoyne or any other person for him dictate the answers you should make to this Court?

A. No.

Cornet Thomas Mitchel was sworn.

Examined by Prisoner.

Q. Did Quarter-Master Searle leave some debts unpaid in quitting the Regiment?

A. I think he did.

Q. Have

Q. Have I been desired to retain any trifle that I might owe him?

A. Not to my knowledge.

Lieutenant Jarvis was called.

Examined by Prisoner.

Q. Have you told me, that if there was any trifle due Quarter-master Searle, to retain it in order to pay some debts he owed in the Regiment?

A. He owed some trifle, but I did not desire you to retain any money of his, but wrote to the Agent to stop it out of his arrears, which he did.

Q. Did you not tell me, that if I owed Quarter-master Searle any thing, it should go to pay his debt?

A. No, I could not tell you so.

Q. Did you tell me that Quarter-master Searle left debts in the Regiment unpaid?

A. I did.

Here the Prisoner read a statement of the 2d Article of the 6th Charge, which is annexed.

2d INSTANCE to VI, CHARGE.

This Charge is, if possible, more extraordinary than the preceding one. My prosecutors, knowing that I accuse them of encouraging the men to refuse the Irish Establishment, bring a charge against me, purporting, that I suppressed an official communication from his Royal Highness the Duke of York, relative to the Regiment being put on the Irish Establishment; I will join issue with my prosecutors, and as they requested the Court to permit them to go deep into the business, I will submit the same request to them; not because as one of the gentlemen has said, they had reason to think that the mind of Marquis Cornwallis was prejudiced against them, but because I

Q

flatter

flatter myself that from my conduct in that business I am entitled to praise, not censure ; and because I have good reason to believe, that if the opposition and contrivances of those gentlemen had not been counteracted, the bad example set by the Essex Regiment would have done considerable mischief to the other Fencible Regiments serving in this kingdom. As for the Essex Light Dragoons, who are, thank God ! so well spoken of - at present, they would only have been remembered with indignation, as a Regiment that turned their backs on the enemy when supposed to be on their coast, because they could not make thirteen pence of a shilling.— In that case I should now have been enjoying my domestic comforts, and following my agricultural pursuits, and these gentlemen would have been deprived of the gratification of tormenting their Colonel. I shall prove to you what was the state of the Regiment when I arrived at Drogheda, the 15th or 16th of May ; those officers who were anxious for the honour of the Regiment, and wished to prevent the reduction of it, assured me the men were not to blame, and that they had been encouraged by their officers to refuse the Irish pay ; that it had been publicly said that they ought to be hanged and damned if they took it, that they would disgrace themselves by accepting it, and that the Lieutenant Colonel declared, that if, after all, I persuaded them to accept it, he must quit the Regiment. The Adjutant informed me that he had exerted his utmost influence to persuade the men to consent to be placed on the same footing as the other Regiments of Fencible Cavalry in this kingdom ; he also informed me, that though the Lieutenant Colonel had taken upon himself to offer the Regiment for foreign service, the men had by no means consented to it, and that my troop had been sent to the Man of War for not acquiescing in his proposal. With those disadvantages I ordered

ed a field-day, and determined to try my influence with the men. On proposing to them to accept the Irish pay, I assured them that I wished for no advantage for myself, and that whatever was saved in the off-reckoning's account, should be expended on the Regiment. I found with much concern, that the men had been so strongly prejudiced against serving in this kingdom, that some additional bounty was necessary to induce them to engage to continue here as long as they should be wanted; I gave them a guinea each from my own pocket, rather than see a Regiment disgraced, whose honour I had so much at heart. I have had the happiness to find that this sum, inconsiderable as it is, has been expended for the good of his Majesty's service, as the behaviour of the men has been uniformly good since that period. I wish that part of the Pay-master's evidence to be read, concerning the letter I received from the Duke of York's Office, it will appear that two very considerable mistakes occurred in his evidence, it was not directed to me or Commanding Officer, and there is no mention made of my *request being complied with*. My prosecutors have endeavoured to prove that I wished the Regiment to be placed on the Irish Establishment, that I might have the pecuniary advantages of the off-reckonings; I therefore have wished to prove, that it was done in consequence of my request to his Royal Highness, but fortunately I have found the original letter, I now submit it to the Court, whether I wilfully suppressed the letter, whether it was I or those gentlemen who encouraged the men to refuse the pay of this country. I made the Lieutenant Colonel acquainted with the contents of this letter, and as he has informed the Court that he acknowledged the receipt of my letter I have no doubt of his writing to me, though I certainly never received his letter. But I submit it to this Court, whether it is not extraordinary that though he mentioned his difficul-

ties to General Needham and Colonel Taylor, he never informed me of them by letter.

Captain Webster was called.

Examined by Prisoner.

Q. When I arrived at Drogheda in May last, what was the disposition of the Regiment in regard to accepting the Irish pay?

A. They had been frequently asked about it, but did not accept it.

Q. Previous to my arrival, did you write me word that the Regiment was encouraged to stand up for their usual pay?

A. Yes.

Q. By whom do you mean they were encouraged not to take the Irish pay?

A. In December 1798, when a letter was read on parade from Colonel Burgoyne to Lieutenant Colonel Scudamore, that the Regiment was to be placed on the Irish Establishment, notwithstanding the former promise to keep them on the British Establishment, Lieutenant Col. Scudamore observed that it was not fair, but desired them to consult among themselves, and give memorials to the officers commanding troops.

Q. Did you ever see any memorials drawn up by the officers for the men?

A. I saw memorials drawn up by the officers, but don't know what use they were made of.

Q. Did I, by considerable exertions persuade the men to accept the Irish pay?

A. You did.

Lieutenant Jarvis was called.

A letter in its cover, post mark, London, 15th December—Dublin post mark, 19th December, was produced and shewn to the evidence, and asked if it

it was (to the best of his recollection) the one alluded to in his former evidence, which he brought from Messrs. Armit and Borough's office to Colonel Burgoyne, who answers, he does not think it is the same letter.

Examined by Prisoner.

Q. What day in December last did you bring me the letter you allude to from Armit and Borough's?

A. The 19th December, and I believe you failed the same day.

Examined by Court.

Q. Did you bring more than one letter to Colonel Burgoyne that day?

A. I brought but one letter that day.

Q. Do you think the letter was addressed to the care of Armit and Borough?

A. I believe not.

Q. Is it likely Colonel Brownrigg would have written *two* official letters to Colonel Burgoyne on the same subject, and on the same day?

A. I think not.

Cross-examined by Prosecutor.

Q. Might not Colonel Brownrigg have written two letters on the same day, one to Colonel Burgoyne, private, and the other to Colonel Burgoyne or Officer Commanding, officially, to communicate to the Regiment?

A. He might.

Examined by Court.

Q. From whence do you conclude that the letter produced before the Court, is not the same from whence Colonel Burgoyne read an extract to you?

A. The manner of the letter being folded, struck me more than any thing.

Q. Might

Q. Might not Colonel Burgoyne have received a private letter by the post-man on that day ; and are not the public official letters often sent through the Agents ?

A. It is probable he might, as he desired the letter-carrier of the Regiment to call on him on *that day at Kearns's*. Official letters are often sent through the Agents.

Q. Did any official letter come to the Regiment, through the Adjutant-General's-Office, for putting the Regiment on the Irish Establishment ?

A. I believe not.

Q. Do you recollect from which side of the paper, Colonel Burgoyne read the extract to you ?

A. I can't be positive ; but he read it the moment he opened it.

Q. Can you positively swear how the letter of communication was addressed ?

A. As I said before, to the best of my remembrance, it was addressed to Colonel Burgoyne or Officer Commanding.

Q. In what manner, and through what channel, was it officially notified to the Regiment that they were put on the Irish Establishment ?

A. By a letter received from Colonel Burgoyne about a month ago.

Q. Does that part of the letter before the Court, relative to the Regiment being placed on the Irish Establishment, differ in purport from the extract read to you by Colonel Burgoyne ?

A. I do not remember his reading at all in that way.

Q. Under what authority did the Irish Agents act, when they paid you on the Irish Establishment ?

A. I drew upon England to the 24th July last, and had many of the bills protested at an amazing expence. The Agents paid us on the authority of
the

the letter I mentioned to have been received at Naas from Colonel Burgoyne.

Q. Could you observe whether the letter from which Colonel Burgoyne read the extract, was written on more than one side of the paper?

A. I have not seen any of the letter.

Captain Webster was called.

Examined by Court.

Q. Have you the official letter for putting the Regiment on the Irish Establishment?

Here the Witness produces the regimental letter-book, by which it appears in a letter from the Duke of Portland, dated 27th June 1799, that his Majesty consents to the placing the Regiment on the Irish Establishment; and in a letter dated War-office, Dublin Castle, 1st August 1799, signed Gasper Ereke, it is there stated the Regiment is to be placed on the Irish Establishment from 24th May inclusive.

Here the Prisoner read a statement of the Defence of the third Article, on the sixth Charge, which is annexed:

3d INSTANCE to VI. CHARGE.

When I have sent Officers out of their turn of detachment, it has been always for the good and convenience of the Regiment; the Surgeon's Mate was surely of more use on any detachment than at head-quarters, where, on account of the Surgeon being present, he could not be wanted; I have seldom detached the Surgeon, as I consider him the principal, and on all occasions responsible for the Hospital. The Adjutant has informed you, that I had other reasons for sending Cornet Ellis on detachment. The fact is, that I thought his political opinions would not do any good in Drogheda; but

as I do not wish to follow the example of my prosecutors, by exposing private conversation, I shall say no more on this subject, but only remind the Court, that the Adjutant informed them, that when I broke in on the regular tour of duty, it was for the convenience of the Regiment. My Friend, who sits by me, was the Officer sent out of his turn; and I believe he was not dissatisfied to be near one of the most hospitable houses in this kingdom, and to receive the compliment paid him and his detachment, by a noble Lord, whose letter I had the honour to deliver to this Court.

Cornet Daniel was called.

Examined by Prisoner.

Q. Have you any of the ticken saddle bags in store, and how many?

A. Seventeen.

Q. As they cost 5s. each, on whom must the loss fall?

A. On you, as they are yours.

Joseph Chace was called.

Examined by Prisoner.

Q. Were you charged with a rug and firingle?

A. I was not.

Q. Did you hear me say, that those men who were charged with a rug and firingle, should have their money returned when given up in Ireland?

A. Yes.

Q. Was Cornet Sharpe present when I said so?

A. Yes.

Cross-examined by Prosecutor.

Q. Were you ever supplied with a rug and firingle?

A: I

A. I was with a firfingle, but not a rug.

James Beafort, a Private, was fworn.

Examined by Prifoner.

Q. Have you been charged with a rug and firfingle?

A. Yes.

Q. Did you underftand that the money you paid for them, was to be returned on your giving them up in Ireland?

A. Yes, or I was to have a regimental cloth inftead of it, which I have got.

Q. Was the charge of the rug and firfingle ftopped out of your bounty?

A. Yes.

Crofs-examined by Profeccutor.

Q. What did you pay for the rug and firfingle?

A. Nine fhillings and fix pence, Britifh.

Q. What is become of them?

A. I loft them.

Q. When did you receive the regimental cloth, and where?

A. In Naas, two months ago.

Rubin Evelin, a Private, was fworn.

Examined by Prifoner.

Q. Were you prefent when I informed the recruits, that thofe who returned the rug and firfingle in Ireland, fhould have the money returned to them?

A. I was.

Q. Did I make this declaration in the prefence of Cornet Sharpe, and do you think he heard me?

A. You did, and I think he heard you.

Captain

Captain Graham of the Essex Lt. Dragoons was sworn.

Examined by Prisoner.

Q. At what time did Greaves make the complaint to you of being charged with a horse-rug and firshingle?

A. To the best of my recollection, he complained to me a day or two before you went to England in August last, and I told him to go to you himself, as you had given out an order, that all men who had any demands upon you should come to you at your own house.

Q. Did you, as his Captain, ever mention it to me?

A. No, I did not, and for a very good reason; I had often tried to seek redress for the men of my troop from you, but so often to non effect, that I began to think it a fruitless object. I most particularly relate to the Court, that I sought redress for the men of my troop of you, at the head of the General Parade at Newcastle-upon-Tyne, in the summer of 1797, stating to you, that my troop were extremely dissatisfied at your having ordered some very bad necessaries to be thrown upon them from the stores of Quarter-master Hawkins (your Quarter-master). I also stated to you at the same time, that my men were extremely dissatisfied in only having received one pair of gloves since they had been enlisted, upwards of three years, informing you that by his Majesty's regulations they were entitled to one pair of gloves per annum: on this you ordered them one pair of gloves each, but have not continued to supply them with one pair of gloves annually since that time, though I particularly mentioned his Majesty's regulations to you. I also recollect on the general parade of two troops under my command at Dunbar, in Scotland, just after your Court-Martial, that you requested me (as you were then under an arrest), to ask that parade as Commanding Officer, if any of the men were dissatisfied, or had any claims against you

you to come forward, on which two men came forward, one of the name of *James*, of my troop, and the other of the name of *White*, of the Major's troop, who both said they had a demand of a pair of leather breeches a-piece. As to *James*, you said you would abide by what I thought proper; that man then went on furlough, I thought he should have got them when he returned, but whether he has received them I do not know, but I observed to the Quartermaster, it was just that he should have them. As to *White*, you said his claim was unjust, and that he might go back into the ranks, but which claim I understood had been since brought before the Court of Enquiry, and allowed to be just; whether it was redressed or not to this moment, I do not know.

Q Do you know by the custom of the army, and the standing orders of the Regiment, that it is your particular duty to acquaint the Commanding Officer of any complaints in your troop?

A. It certainly is so, but I have already assigned my reasons, and that I found it useless.

Q You speak of my not giving you redress in the year 1797, how could you see your troop dissatisfied so long without complaining of my conduct?

A. Because I had then more confidence in your honour, as an Officer, and Colonel of the Regiment.

Q Why have you not brought before the Court some of the men who have been dissatisfied in your troop?

A. I had originally so intended, under the 4th Charge of embezzlement, to which I could have brought almost the greater part of my troop, but I wrote to the Agents in London for an examination into their accounts of off-reckonings, &c. but which I was refused by a letter from them, which I have had the honour to lay before this Court, shewing that this 4th Charge of embezzlement was not framed purposely for your protégé or apprentice.

Q Was

Q. Was the dissatisfaction so expressed by your troop, on account of my conduct to them, or from your own supposed ill treatment of them?

A. From your actual conduct to them in not supplying them with their just due, as they stated to me.

Q. At the time the Regiment consented to receive the Irish pay, did several of the men of your troop agree to accept it, provided they were transferred to another troop?

A. There were two men expressed such a wish, one of whom left the troop and the other remains. The reasons I account for it are, these, the one that did go out of my troop was a great friend of a serjeant whom I got reduced by a Court Martial, he was anxious to go with him, and the reason that this man assigned for leaving my troop was, that he was stopped one penny a week to give to his washer-woman, for keeping his necessaries in repair, which he said no other troop did but mine. With respect to the other man, he told me he wished to leave my troop, because he thought that I had altered my opinion of him, in having heard that I fancied him one of the ring-leaders in preventing the troop from taking the Irish Establishment, but when I told him the contrary, the man was ready to stay, and did so, and I actually turned away my own best man, because he refused the Irish pay.

Q. Can you say that there was only two men that wished to leave your troop?

A. Only two to my knowledge, except the reduced serjeant, who wished to make a bargain with you, viz. that he would accept the Irish pay, provided you would take him from my troop, and make him a serjeant again.

Q. If you were so anxious for the men to take the Irish pay, why did you draw up a memorial for them against their accepting it?

A. I did

A. I did not ; I drew up one for my own private reading, but I never preferred it to Lieutenant Colonel Scudamore, as a memorial to go in, nor ever communicated it to the troop, but what I handed to the Lieutenant Colonel officially from the troop, I solemnly declare was from the troop's own invention.

Cross-examined by Prosecutor.

Q. By whom were the bad necessities furnished which Quarter-master Hawkins gave the men ?

A. I understand from the evidence of Quarter-master Hawkins before this Court, that they were furnished by Colonel Burgoyne, and were delivered to the Quarter-master by wholesale and retail.

It being 3 o'Clock, the Court adjourned till Monday next at 11.

Monday 11th November, the Court met pursuant to adjournment.

Captain Graham was called.

Examined by Prosecutor.

Q. Were the men obliged to keep the bad necessities and pay for them, notwithstanding their remonstrance made through you to Colonel Burgoyne ?

A. Those that received them were obliged to keep them, but some of them actually refused to take them, and they are on the Quarter-master's hands still,

Examined

Examined by Court.

Q. In what manner did Colonel Burgoyne generally conduct himself towards you, when you applied to him for redress in behalf of the men of your troop?

A. Very well towards me, but what I remonstrated was not redressed, so far as I before said.

Q. Did you ever represent to the men of your troop, that your several applications to the Colonel in their behalf, had been without effect?

A. Yes.

Q. Because a difficulty occurred in 1797, in procuring redress for the men of your troop, did you give up the point altogether from that period?

A. Yes, I did.

Q. Can you say that you have no other motive of bringing these charges against Colonel Burgoyne, than promoting the public good, and obtaining justice for the men?

A. No, I have not, for I lived on better terms with Colonel Burgoyne, than any other Officer in the Regiment.

Q. Don't you know, that when an officer applied for redress to his Commanding Officer, especially on a point affecting the men under his command, and has been refused it, that it is his duty to seek redress from some higher power?

A. It certainly is my duty so to do, but when Colonel Burgoyne had redressed the remonstrance I made in one instance, I had every reason to suppose, that he would do so every year following.

Q. When you found that was not the case, did you apply to him again, and when?

A. I did not, because I did not discover it again, until we were at Drogheda.

Q. Did you know of no grievance the men laboured under from 1797, till you were quartered at Drogheda?

A. No,

A. No, I had no report made to me except for a serjeant's blue jacket at Loughlinstown Camp, which I believe, but am not certain, I told the Colonel of, but am certain I signed it in my return, as one wanting, and which the man has not got to this day.

Q. Who told you Edward Saltmarsh had been aggrieved, and his bounty withheld from him?

A. To the best of my recollection, either Quarter-master Connor, or Quarter-master Hawkins first mentioned it; I then had recourse to the Paymaster's books, and found the Colonel had been credited with his bounty, upon which I sent Quarter-master Hawkins to bring Saltmarsh to me, but not being at home, I by chance afterwards met him in the street, and having asked him, whether he received his bounty, he said not; I then asked him if he had ever applied to the Colonel for it, he said he had several times, but never could get it, saying he thought it was extremely hard upon him, being nearly 6*l.* in debt, and under stoppages; I then said, my lad, I will see you redressed if I can.

Q. You have said, you made no further enquiry about the gloves, until this business came forward: What business do you allude to?

A. I allude to this Court Martial, when I thought it was my duty to enquire into every thing.

Q. State your reasons for desisting from your applications to Colonel Burgoyne in behalf of the men of your troop?

A. Colonel Burgoyne and I had done very little duty together since August 1797, and not having had fresh applications to me, I of course had no occasion to make other applications to him.

Q. Did you desist from your applications, because you had applied so often without effect, and therefore gave up all expectations of obtaining redress

dress for your men, or because you thought that Colonel Burgoyne would continue to redress the men's complaints, without any further representation on your part, as he had attended to you in the instance of the gloves?

A. I have already told the Court that I made two remonstrances, and finding that he had redressed only in the instance of the gloves for one year, and not having continued his Majesty's regulations in supplying the gloves, I can only look upon that single redress as a blind to my future applications; and not having at all redressed the representation I made at Dunbar, and also obliging the men to keep the bad necessaries at Newcastle, though I remonstrated, I had reason to think, as those applications proved fruitless, that there was no use in my going any further; as the Court will recollect, that I referred Greaves to the Colonel himself.

Cornet Mitchel was called.

Examined by Prisoner.

Q. Has a great intimacy existed between Captain Graham and me?

A. I believe there has.

Q. Did you ever tell me, that the other Officers were jealous at my partiality to Captain Graham.

A. I did.

Corporal Martin was sworn.

Examined by Prisoner.

Q. Are you a Corporal in Captain Graham's troop?

A. Yes.

Q. Do you know of any claims in Captain Graham's troop, except for gloves?

A. No.

A. No, I heard a recruit say something about a firingle and rug that he was charged with, and that he would speak to Captain Graham about it.

Q. Have I, in any particular instance obtained justice for you, when you were wronged, and name the instance?

A. I had 6*l.* 12*s.* coming to me from Quarter-master Hawkins, which I was paid by your order, but before I was paid, I applied for it at different times to the Quarter-master, which he told me it was not in his power to pay me, until he settled with you.

Q. At what time was your balance due, and of whom, and when did you receive it?

A. It was due to me about fourteen months ago, and I received it from the Pay-master about three or four months ago.

Q. Are the men of Captain Graham's troop well satisfied with my conduct towards them?

A. I can only speak for myself, I heard some of the men say, there was very hard duty, as to parades and guards,

Cross-examined by Prosecutor.

Q. Did you belong to Captain Graham's troop, when the Regiment was at Newcastle and Dunbar?

A. No.

Q. Had you that confidence in Quarter-master Hawkins, that you think he would have paid you, had he the means?

A. Yes, for he offered to pay me at Newry, but he could not get change.

Q. Did you not request him to keep your money for you, at the time he offered to pay you at Newry?

A. Yes, when I could not get change I told him it was no matter, that I would see him again,

R

and

and get it when I wanted it; we marched soon after from Newry.

Q. Had you not been drilling yeomanry at Hadington, by that means your pay accumulated 6l. 12s. and was it not at Newry you first joined the Regiment from Hadington?

A. Yes.

Examined by Court.

Q. Did you ever hear any of the men of Captain Graham's troop complain, that they were not supplied with their regular allowance of gloves?

A. Yes.

Q. Did it appear to you that the men considered that Colonel Burgoyne would do them strict justice in the instance of the gloves, on a due and proper representation?

A. The men thought themselves aggrieved at not getting their proper allowance of gloves.

Q. Are the troop in general discontented, or do they think themselves treated worse or better than any other soldiers of any other Regiments?

A. I never heard them express any dissatisfaction, except concerning the gloves and hard duty.

Q. Do you know of any other complaint the men have except the gloves?

A. No.

Q. Did you ever hear the men express themselves satisfied with Colonel Burgoyne's attention to their wants, or to any complaints they had made?

A. Yes, Sometimes have.

John Graves a private Sworn.

Examined by Prisoner.

Q. Did you ever make any complaint to Captain Graham, on account of any horse rug and firingle, and what answer did he make you?

A. I

A. I did, and he told me he would speak to you about it.

Q. Did you hear me say in Essex that you would be repaid, when you returned the rug and fir-fingle?

A. Yes.

Q. Was Cornet Sharpe present?

A. Yes, to the best of my knowledge.

Q. Were you not summoned by Captain Graham to appear as a witness on this trial?

A. I come with a serjeant and a private of the troop, and I suppose it was by Captain Graham's orders.

Q. What has been my conduct towards you?

A. You always behaved to me as a friend, and a good Colonel.

Q. Have you that opinion of me, that I would always do you justice and redress any grievance?

A. I know nothing to the reverse.

Cross-examined by Prosecutor.

Q. Some days ago were you tried by a regimental Court Martial on the charge of theft?

A. Yes.

Q. Although you were summoned here, did not Captain Graham send you back on learning that you were accused of committing a theft in Dublin?

A. I was sent back, but I don't know by whom.

Q. Were you a mutineer on board the fleet at the *Nore*, and were you under sentence of death for that mutiny?

A. I was so charged, and so sentenced.

Examined by Court.

Q. At what time, and by whom were you enlisted for the Essex Regiment?

R 2

A. By

A. By Serjeant Story on the 19th December last at Harlow in Essex.

Q. Did you shew serjeant Story your discharge from the fleet?

A. I did.

The Prisoner here read a statement of the 3d instance of the defence of the 6th Charge, which is annexed.

3d INSTANCE of 3d part of 6th CHARGE.

In regard to the over-alls or pantaloons, I am much obliged to my prosecutors for bringing this Charge forward.

In the year 1797 finding the men in want of clothing, and being unwilling to put them to the expence of a stable jacket, though I might have done it according to his Majesty's regulation, I ordered them each a white jacket which cost 12 shillings, for which they were not charged any thing, as I thought I should be able to charge it the following year, when the clothing would be due, but in the next year 1798, seeing no prospect of a reduction of the Regiment, I ordered the full clothing of two jackets to be provided, and the men to be charged 10s. for the white jackets which had cost 12s. each. I have no doubt but the men would have paid it without a murmur, if they had not in my absence been encouraged to resist it. The party who never lost any opportunity of opposing me, drew up the following memorial.

" SIR,

" Understanding that upon every clothing, a second jacket is allowed, and which we have received for the present year, viz. the *blue*, we the Captains of troops request you as Commanding Officer,

Officer, to represent to Colonel Burgoyne that as no second jacket has been received for the year 1796, they wish that it might be applied for to Government, or if agreeable to Colonel Burgoyne, they would prefer taking the white ones they have in present use, in lieu thereof, provided they are not to pay for them.

J. Godsalve Croffe Maj.
Tho. H. Bund, Captain.
G. G. Graham, Captain.
Wm. Lewis André Capt.

Lieut. Col. J. Scudamore
Essex L. D.

Ayr Camp July 19th 1798.

I still persisted in charging the men, as I knew I had a right to do so, and drew up the following reasons for the Pay-master, viz. Colonel Burgoyne hopes that the Essex Light Dragoons do not wish for any fresh proof of his sincere desire to obtain for them the full advantage of every allowance granted to them by his Majesty, he has done so in a peculiar manner in regard to the clothing, and can shew that they have had the allowance to the full extent. His Majesty ordered a jacket and vest for each man in 1794, when the Regiment was raised, they not only received this, but a green jacket which cost 14s. for which they were charged nothing. In 1795, at the time of the augmentation, almost all the men who are now in the Regiment had a new skirted jacket. In 1796, they had each a jacket of the present form; all which clothing amounted to as much if not more than his Majesty's allowance. They have this year received two jackets, the second very superior to what is usually given: By his Majesty's orders the Colonel is permitted to charge a stable jacket every two years, so that he might now charge the third, but only

only one has been charged besides the white one now ordered to be charged, and which cost the Colonel near twelve shillings, though only ten shillings are charged for it. Colonel Burgoyne desires that it might be understood, that according to the agreement he made with Government, he can derive no emolument whatsoever from the clothing; and he expects that the Commanding Officer and Captain's of troops will explain this to the men, which they must be perfectly sensible of themselves. The white jackets must certainly be charged, and if the men have any more claims to make, the Colonel will abide by the orders of the War-Office: but when I met the Regiment in Ireland, I was unwilling to give them any cause of discontent, and especially when it was at a time when the Irish pay was first mentioned to them. I therefore determined to give up the point, and to do it in a way that would be most beneficial to them, though the expence to me was 138*l.* British, the men consented to my proposal of purchasing overalls, and I issued the following order.

But in Loughlinstown Camp, two troops refused to take them; Captain Bund's troop was one, I submitted the affair to General Needham, who said that the men ought to take them.

The comfort that they afforded the men in Camp was so great, that I believe not a man repented of having had them.

Captain Webster was called.

Examined by Prisoner.

Q. Did I issue an order on the 22d September 1798, respecting stable jackets and overalls?

A. Yes, in those words, "Colonel Burgoyne has ordered all the men to be charged with stable jackets, which he is authorized by his Majesty's

“ Majesty’s regulation to do, but in order to give
 “ a proof of the satisfaction he has received from
 “ the loyal zeal and spirit manifested by the Re-
 “ giment, he orders the jackets not to be charged,
 “ though the loss will fall on him to the amount
 “ probably of 150/. At the same time he orders
 “ the Officers of troops to provide them with a
 “ pair of new over-alls according to pattern, for
 “ which they are to be charged a sum not exceed-
 “ ing ten shillings.”

Q. Were the men satisfied with this my pro-
 posal?

A. I heard nothing to the contrary.

Cross-examined by Prosecutor.

Q. Did Colonel Burgoyne make the men of the
 Regiment a present of those white jackets (as men-
 tioned in his orders of 22d September 1789) at
 Newcastle upon Tyne, and then want the men to
 pay for them the year following at *Ayr*, by send-
 ing an order to Lieutenant Colonel Scudamore for
 that purpose?

A. I understood he made them a present at
 Newcastle upon Tyne, by a verbal promise to the
 men on parade about the latter end of July 1797,
 and an order was issued by Lieutenant Colonel
 Scudamore, 3d August, at *Ayr*, in the following
 words.

“ In compliance with instructions received from
 “ Colonel Burgoyne, the Regiment is apprised that
 “ a charge will be made for the white jackets if-
 “ sued out at Newcastle at the rate of *ten* shil-
 “ lings per jacket for privates, and fifteen shillings
 “ per jacket for the serjeants, the payments to be
 “ made by *three* monthly instalments.”

Q. Did

Q. Did Colonel Burgoyne say at the time he made them a present of the jackets, that he had made a *saving* from the horses feed, and could afford to give them a jacket each?

A. I remember his saying that he had made a *saving*, but I can't positively say whether it was from *feed* or *clothing*.

Q. Did the men shew any discontent at being ordered to pay for the jackets which they had received as a present at Newcastle?

A. Yes, they said they had been given to them.

Examined by Court.

Q. Do you consider that the Non-commissioned Officers and men of the Essex Regiment, are satisfied in general with the treatment they have received from Colonel Burgoyne?

A. I have heard murmurings, but in general taking one thing with another, I believe they were tolerably well satisfied.

Q. Does it appear to you that Colonel Burgoyne has been desirous upon all occasions to attend to the complaints of the men, and to redress all real grievances?

A. Yes.

Here the Prisoner read the statement on the defence of the 4th item of the 6th Charge, which is annexed.

4th Instance, VI. CHARGE.

I never confined any Quarter-master for a trivial offence, if I have committed a fault, it is by shewing too much lenity to the Quarter-master who complained, the other Quarter-master who was to have been brought forward as a complainant, has been lately cashiered by the sentence of a General Court

Court Martial, I refer the Court to the Cross-examination of Quarter-master Canham.

6th Charge closed.

VII. CHARGE.

Here the Prisoner read the statement on the defence of the 1st item of the 7th Charge, which is annexed.

VII. CHARGE.—INSTANCE 1st.

It is the first time that I was ever charged with withholding money due to any person. I certainly withheld Quarter-master Hawkins's demands, because I thought them unreasonable, and that they did not attach on me; I therefore ordered a Court of Enquiry in the end of 1797, but he did not choose to make any demands to that Court, except a trifling sum, though I had before told him that I could not pay him. I referred him to the Captain Lieutenant and Cornet of my troop, whose camp equipage had formed a considerable part of the extra expence. This omission appears the more extraordinary, because other Quarter-masters made their complaints, and the chief investigation of the Court was the baggage expences. I had no stores at all, except a music chest and some regimental stores, which could not have taken half a waggon; there was also a large quantity of camp equipage and ammunition, both of which the Pay-master should have settled. All my baggage was sent by sea, and I was not with the Regiment when the expence was incurred, notwithstanding which, I was charged by the Pay-master the sum of 10*l.* 5*s.* which I paid. There are other charges in this account that Hawkins has no right to claim of me; 1*l.* 8*s.* 6*d.* is charged for horses quarters,

quarters, on landing in this kingdom; 3*l.* 13*s.* 6*d.* for sadler's and boot bills, which have never been delivered to me; 10*s.* 9*d.* for horses oats on their arrival at Ayr; 1*l.* 8*s.* for the carriage of an oat mill and chaff box, which through Quarter-master Hawkins's carelessness, was left behind at Newcastle, and instead of being carried by the troop-waggon, was sent by the stage waggon at that expence. He charges 4*l.* 14*s.* for the baggage waggons for 19 miles; 4*l.* 10*s.* 6*d.* from Kello to Ayr, notwithstanding those demands, the Pay-master has paid for extra baggage in Scotland the sum of 15*l.* 4*s.* which he charges to his allowance for the carriage of ammunition. When these heavy charges were incurred, I was not with the Regiment; I sent all my private stores by sea from Deal, and the regimental stores did not take more than half a waggon. There are some articles for which I would willingly have paid, but Quarter-master Hawkins did not choose to separate them from other parts of his demand. It has been proved that the demand was not made, but has it been proved that a single article of this Regimental account is justly demanded? General Needham's Brigade Major swears, that the General ordered it to be paid; he certainly desired it might be *settled*, but I have too good an opinion of the justice of that General, to suppose that he would order me to pay it without having my objections. There were absolutely four waggons charged, and there is an expence of 3*l.* for 15 miles, and 4*l.* 14*s.* for 19 miles. Few officers, I believe, would shew more deference to the commands of a General than I would; I would always obey as I expect to be obeyed on a smaller scale myself, but I confess, were I ordered to pay a large sum, which I thought I had no right to pay, I should certainly request an enquiry. But even suppose that all his demands were just, and ordered to be paid, should I, as Commanding Officer,

cer, have done my duty in paying him 35*l.* when he had embezzled money from two troops, had left regimental debts at Newry, and owed subsistence to the men to a large amount, some of which has been very lately paid. On the 1st December he owed these two troops the sum of 67*l.* 12*s.* 6*d.* and he had no horse. It is rather extraordinary, that from the 13th May, when I joined the Regiment, he never spoke to me about it till the 1st August, the day before I left Drogheda, and though on the 20th September, I issued orders that all those who had claims on me, should bring them in, he preferred making his complaint to my prosecutors, who did not deliver this charge till the 1st October. On seeing it, I desired Hawkins to deliver his account and vouchers to the Pay-master, the latter of which he refused to do. It is equally extraordinary that I never should have heard of the letter written on the subject to General Needham, till I saw it in Court. The Pay-master told me that the General had ordered 12 guineas to be paid to Hawkins, which he had not paid him, because he was so much in his debt. Had I heard of this letter, I certainly should have ordered a Court of Enquiry, or referred the matter to arbitration, *which I am now extremely willing to do.* I submit it to the particular consideration of this Court, for what reason was this letter addressed *to the Commanding Officer* in my absence, and in which I was most materially concerned, has been concealed not only from me, but from my Adjutant, for the space of six months, and why this official letter, like all others, has not been entered on the Adjutant's letter book. I think myself very unfortunate, that the absence of General Needham from this country prevents his giving his own evidence, as I am convinced he would not have written the letter, except the business had been misrepresented to him. I should not have dwelt so long on this subject of Quarter-

master

master Hawkins, had not he given an extraordinary account of the conversation he had with Quarter-master Payne and his brother, who, in many respects flatly contradicts Hawkins's evidence. I certainly gave no authority to either of them to do any thing, but what I would openly avow in this Court. Both Quarter-master Payne and his brother first began by telling me that they believed that Hawkins was not at all ill disposed towards me, but only wished to receive his demands; I said that great part of it did not concern me, but if he were satisfied to confide in my probity and justice, I would submit it to the arbitration of Quarter-master Payne, and abide by his decision, as soon as the Court Martial was finished, for I knew that it would take a great deal of time to investigate it there. As to the private accounts between Quarter-master Hawkins and me, it is perfectly distinct from the regimental accounts. He was generally settled with once or twice a year, has expressed no dissatisfaction, but appeared obliged to me for not pressing him for the money due. He made no objection to receive the necessaries from the regimental stores, which for the convenience of the Regiment had been provided. It is not, I believe, supposed, that I derived any advantage from them; as to their goodness, I cannot answer for them now; they were sent by Peater of London, in the year 1795, and this is the first complaint I have heard of them from Quarter-master Hawkins, I had almost forgotten to mention, that in September, 1796, I paid Quarter-master Hawkins 92*l.* 10*s.* for the troop debt, so that he was immediately paid for whatever he issued to the men. In November 1798, there appeared a balance of 28*l.* 2*s.* 8*d.* which Hawkins says he drew up through fear; he however made it up himself, he was not confined to the barrack on that account, but in order to find some new accoutrements, all of which he has not yet found.

I settled

I settled the last private account with him at Drogheda, and paid him a balance of 14*l.* 10*s.* 9*d.* since that time I have found that an error in an old account has been committed, which makes an alteration in the account in his favour of 24*l.* 9*s.* He would not have discovered it, if I had not informed him of it, as soon as I had made the discovery. Quarter-master Hawkins seems more intent to please his Captain by injuring me, than to recover his demands. He was the person employed to make Edward Saltmarsh dissatisfied, and was the confidential friend to whom Serjeant Rotherham entrusted the conversation which he reported to have had with me on the subject of the Regiment. From the answers he makes to the questions asked him, concerning the purchase of his warrant, he seems to have been encouraged to hope that the purchase money might be returned to him. The date of the letter forbidding the sale of the warrants, has been shewn to you, and proof brought that the warrants were generally sold. For my own part, I only sold three, and gave away the other three, namely, one to the Pay-master and John Payne, one to the Riding-master, and one to the Adjutant, to whom I also gave 20 guineas to make him amends for receiving less for the warrant than he expected. I omitted mentioning that Quarter-master Hawkins has never paid subsistence which he owed to a private in my troop, to the amount of upwards of 6*l.* though it has been paid by the Pay-master, to whom Hawkins now owes 13*l.* He says that Edward Saltmarsh was dissatisfied concerning his bounty, and was very pert, but it now appears that his dissatisfaction arose from the Quarter-master's not being able to pay him 1*l.* 17*s.* 6*d.* which he owed him for subsistence. I have omitted to make the following remark, I proved that Quarter-master Hawkins himself proposed that he should be put under stoppages of half-a-crown per day, and that

General

General Needham approved of it, and ordered it to be done. Now I ask this Court, whether it is probable that a General Officer should have ordered a considerable sum to be paid to a Quarter-master, when he found his regimental debts to be so great, that he ordered him to be put under stoppages to the amount of half-a-crown per day? I admit that I wrote down certain questions for Payne to address to Quarter-master Hawkins, but I certainly wrote no answers, or desired Hawkins to make any according to my directions. I do not know, or can I be answerable for what John Payne said to Hawkins, but I declare, and the witness *swears*, that I gave him no directions to tell Hawkins to say he had lost his books, or to suppress his evidence.

Captain Webster was called.

Examined by Prisoner.

Q. About what sum of money did Quarter-master Hawkins owe my troop to the 24th October, 1798?

A. According to the Quarter-master's statement, about 33*l.* 16*s.* 6*hd.*

Q. Name the particulars.

[Here the evidence lays the account before the Court.]

Q. Produce the orderly book, and shew the Order by me issued for the Pay-master to go to Newry and pay the debts.

[Here the evidence produced the order, which was read in Court, and is annexed. See Appendix, No. 14.]

Cross-examined by Prosecutor.

Q. Is the account which you produced the one that

that Quarter-master Hawkins made up from memory, at Dundalk?

A. No, it is one that he made up at Loughlinstown for General Needham.

It being 3 o'clock the Court adjourned till to-morrow at 10.

Tuesday, 12th November, the Court met pursuant to adjournment.

Captain Webster was called.

Examined by Prosecutor.

Q. As Captain Lieutenant of the Colonel's troop, and Adjutant of the Regiment, examine the Regimental account now produced of Quarter-master Hawkins's, and inform the Court if any one item charged therein is unfair, and whether Quarter-master Hawkins, to the best of your knowledge and belief, is not entitled to receive payment of that account from Colonel Burgoyne, as former clerk of the Colonel's troop?

A. I gave my opinion before the Court of Enquiry to that effect, as far as the sum of 35*l.* 3*s.* 8*d.* and the rest of the items appear to me to be perfectly right, except the article of 36 horses quartered in Carrickfergus, of 1*l.* 8*s.* 10*d.* which I think an article of public expenditure.

Q. Though this account you say was made out at Loughlinstown Camp, do you consider that account to be a debt up to the 24th October only?

A. Though it is dated 24th October, it was made up

up to the latter end of November, or beginning of December.

Q. Do you not think that account was drawn up at Loughlinstown Camp as a memorandum of the Quarter-master for the person to pay those debts for him who went to Newry for that purpose, agreeable to the orders issued by Colonel Burgoyne?

A. It was given solely for that purpose.

Q. Do you believe Quarter-master Hawkins would have owed the amount of that bill for the Colonel's troop to 24th October, if the Colonel had paid him what he owed him?

A. I can't positively answer that question, I know there was an account between them, but don't know how it stood.

Q. If Colonel Burgoyne owed him so much or more, and had paid him, do you believe Hawkins would have applied it to pay regimental debts?

A. Yes.

Q. Did not Pay-master Jarvis stand responsible for the debt Hawkins owed Colonel Burgoyne's troop?

A. Yes, because Hawkins was then put under stoppages of half-a-crown per day to liquidate the debt.

Examined by Court.

Q. Do you think, that at the time Quarter-master Hawkins gave in his account at Loughlinstown Camp, he would have consented to remain under stoppages if he had considered there was money due him on a settlement of all the different accounts he had with the Regiment?

A. He consented to remain under stoppages of half-a-crown a day, as, I believe, he really then did not know the exact state of his account.

Examined

Examined by Prisoner, through Court.

Q. Was your private camp equipage carried in the troop waggon from Deal to Scotland?

A. Yes, for which I paid a guinea.

Q. Did Quarter-master Hawkins propose himself to be put under a stoppage of half-a-crown a day, and did General Needham approve of it, and order it to be done?

A. He did, and being asked by General Needham (who was endeavouring to investigate the accounts,) how much he could bear, and he said half-a-crown a day.

Q. If the Pay-master was answerable for Quarter-master Hawkins's debt, who was responsible for the Pay-master?

A. I believe Sir Montague Burgoyne, and the Rev. Mr. Miller of Harlow, in Essex.

Q. Whom did you consider responsible for Hawkins's debt of 33*l.* 16*s.* 6*d.* if he had died in December 1798, and on whom would it fall?

A. On Colonel Burgoyne.

Q. Was it Colonel Burgoyne's custom to order all persons to state any claims they had on him, whenever he was leaving the Regiment?

A. Yes, I recollect it on several occasions.

The Prosecutors here admit, that there was an order to this purpose at Drogheda on 1st August, and another at Naas, the 19th September last, but it was after the Colonel was furnished with the 1st charges that were preferred against him.

Examined by Prosecutor, through Court.

Q. Is not Colonel Burgoyne Captain of his own troop, and has he not a right to be charged with the baggage of the subalterns, or is it customary for Captains to carry the baggage of their own troop?

A. Yes, but I don't determine as to the baggage, there is a shilling a mile allowed, and in general if there was any over weight, the Captains paid for it.

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Q. Don't

Q. Don't you believe Hawkins got the baggage conveyed for which he is charged in account, on the cheapest and best terms he could at the time?

A. Yes.

Q. Don't you believe Hawkins often applied without effect to Colonel Burgoyne, for payment of all or most items in his account, which you have sworn to be just, and was it not due him before he incurred the debt of the 24th October to Colonel Burgoyne's troop?

A. Yes, to within about 4/.

Q. If Quarter-master Hawkins had died in December, would not his arrears have cleared more than the debt he owed to the 24th October?

A. I don't think they could.

Q. How many month's arrear had he due to him?

A. I believe about 12 months.

Q. Did you not say that Lieutenant Colonel Scudamore was bound for Hawkins's debt of 33/ 16s. 6d. and of course, if Hawkins had died, would not the loss have fallen upon Lieutenant Colonel Scudamore?

A. Lieutenant Colonel Scudamore said he would endeavour to see Hawkins's accounts settled and his debts paid, and Lieutenant Colonel Scudamore went to Newry, and paid, as I understand, the debt he owed there, and I believe that by the stoppages he was under, the Pay-master was enabled to pay him, but I don't suppose the Lieutenant Colonel meant to be answerable for the debts of Colonel Burgoyne's troop.

Major Croffe was called.

Examined by Prisoner.

Q. On what day did you and the rest of the Prosecutors first give me notice of the specific charges of withholding money from Quarter-master Hawkins?

A. You

A. You were first furnished with the general charges the 28th July last, and the specific charges on this head was furnished Government on the 18th September, and to you on the 1st October, after being approved of by Government.

Q. Was Quarter-master Hawkins's demand mentioned in any charge delivered to me before the 1st October, 1799?

A. No.

Cornet Mitchel was called.

Examined by Prisoner.

Q. What did Quarter-master Hawkins owe the Lieutenant Colonel's troop, on the 1st December, 1798?

A. 23*l.* 17*s.* 9*d.* the troop debt.

Q. Did he owe any thing for quarters or bread, provided for the Lieutenant Colonel's troop, over and above the sum you mention?

A. Yes, he told me he owed one Noble, at Newry,

	<i>l.</i>	<i>s.</i>	<i>d.</i>
For quartering of horses, —	6	7	6
And to one Drungold, for bread,	1	10	0
	<hr/>		
	7	17	6
Troop debt,	23	17	9½
	<hr/>		
Total,	31	15	3½

Cross-examined by Prosecutor

Q. What do you mean by the troop debt you mention?

A. Part of it he owed the men in balance of their accounts, the rest of it was on closing a general account between him and me, in money advanced by me to him for that troop.

Q. Did not Lieutenant Colonel Scudamore engage to pay this debt of Hawkins's at Loughlinstown Camp?

A. He did.

Q. Was not Lieutenant Colonel Scudamore Captain of the troop to which Hawkins was indebted in those sums you have mentioned?

A. He was.

Q. If Hawkins had died before his stoppages had paid the Lieutenant Colonel those debts you have mentioned, on whom would the loss have fallen?

A. I should suppose on the Lieutenant Colonel.

Q. Has not that debt been paid by stoppages from Quarter-master Hawkins, and to whom?

A. Yes, the Pay-master paid me the 23*l.* 17*s.* 9*d.* to the best of my recollection in the latter end of December, or beginning of January, and I also believe the remainder has been paid.

Examined by Court.

Q. Did Lieutenant Colonel Scudamore engage to pay Quarter-master Hawkins's debt to his troop, before he was put under stoppages, or afterwards?

A. I can't recollect.

Captain Webster was called.

Here Colonel Burgoyne requested the Court to refer to a letter of Brigade-Major Needham's of the 21st April, 1799, to Lieutenant Colonel Scudamore or officer commanding the Essex Light Dragoons, in possession of the Court, marked No. 3, which letter being shown Captain Webster, he was asked if he had ever before seen said letter, or is it entered on the regimental orderly book—answers, he never saw it before, nor is it entered.

Cross-

Cross-examined by Prosecutor.

Q. Do you not believe that Lieutenant Colonel Scudamore sent that letter agreeable to the directions of the General, to Lieutenant Jarvis, as Paymaster, and did not the letter contain a particular order to Lieutenant Jarvis?

A. Lieutenant Jarvis told me he received such a letter, and that he had not paid the money.

Quarter-master Payne was called.

Examined by Prisoner.

Q. Had I any conversation with you concerning Quarter-master Hawkins's account, and what was it?

A. Yes, I remember your asking me whether I thought Hawkins had any enmity towards you; I answered that I thought not, but what he merely wanted was to have a long standing regimental account settled, and I thought that was all he required.

Q. What did I then say?

A. You replied that I might see Hawkins, and inform him that you pledged your word and honour that you would settle that account, and allow all the charges that I thought right and just.

Q. When did this take place?

A. I think Saturday fortnight.

Q. Did I direct you to desire Quarter-master Hawkins to keep back his papers or to suppress his evidence, or did I say any thing of his being confined by me?

A. You did not, but I understood from you that you would not settle with him till the Court Martial was over

Cross-examined by Prosecutor.

Q. Did you, in that conversation with Colonel Burgoyne respecting Hawkins's account, or at any time, and when, tell Colonel Burgoyne you thought Quarter-master Hawkins's account a just one, and that

that it might be paid, and do you now think it a just account?

A. I did tell the Colonel so, and I think so now.

Q. Do you know or believe that your brother, John Payne, desired Hawkins to say he had lost his papers, or not produce his papers in Court, or something to that effect?

A. No, I never heard so, nor have I any reason to believe any such thing.

Q. Do you know if your brother was sent by the Colonel to have conversations with Hawkins on the subject of his accounts?

A. I don't know, I was not in town.

Q. Do you know your brother's hand-writing, and is the paper now produced John Payne's writing?

A. This is his hand-writing.

The words are as follows:

" Mr. Hawkins, as I did not find you at home, I wish to inform you that Quarter-master Payne will call on you about what has passed, to-morrow morning, before ten o'clock.

" Sir, your most obedient,

" Humble servant,

(Signed)

JOHN PAYNE.

Examined by Court.

Q. Did you ever see the paper that you were asked if it was your brother's hand-writing before it was now produced?

A. I never saw it till now.

John Payne was called.

Examined by Prisoner.

Q. What conversation had I with you about Quarter-master Hawkins's accounts, and relate the particulars?

A. I told

A. I told you that I believed all the Quarter-masters were satisfied except *Hawkins*, and he said *he* was, excepting what was owing to him, I told *Hawkins* that whatever Quarter-master *Payne* said was right, should be paid him.

Q. Did I give you an authority to say so?

A. I believe you did.

Q. Did I direct you to desire Quarter-master *Hawkins* to say he lost his papers, or to suppress his evidence, or to say any thing to him, about his being confined by me?

A. No.

Q. Did Quarter-master *Hawkins* tell you, that he was willing to agree to your brother's arbitration, and did he express a wish to see him on that business?

A. Yes, he did.

Q. Do you mean that Quarter-master *Hawkins* said he would be satisfied with your brother's settlement of his account?

A. Yes,

Cross-examined by Prosecutor.

Q. Did you not carry a paper containing three questions, in Colonel *Burgoyne's* own hand-writing, to Quarter-master *Hawkins*, at the Cherry Tree, in Thomas-street, or elsewhere?

A. Yes, I did.

Q. Was not that done at a time Colonel *Burgoyne* knew *Hawkins* was to be a witness against him, and since the Court Martial began?

A. It happened after the Court Martial began.

Examined by Court.

Q. What was the purport of the paper mentioned, and can you produce it?

A. I don't recollect, for I did not read it at all.

Q. Was this one of the questions on the paper—

Q. 1st, What

Q. 1st, What induced you to complain of your Colonel in this public manner?

A. To the best of my knowledge, I think it was.

Q. 2d, Has my conduct been arbitrary or kind to you?

A. I think it was.

Q. 3d, Would you have complained without being infligated, and by whom?

A. I don't recollect that, but can't swear positively that it was not in it.

Q. 4th, Conclusive—"Quarter-master Hawkins, I do not mean to put you in a disagreeable situation in regard to your Captain, and I shall not ask you any more questions on the subject. I hope you have still that confidence in my justice and probity, whatever part of your demand I shall in reason think right, shall be paid to you."

A. I think that was the purport.

Q. Was there any answers given to those questions, by Quarter-master Hawkins, through you, and what were they, as well as you recollect?

A. Yes, he said he agreed to what my brother, Quarter-master Payne, said.

Q. Did Quarter-master Hawkins agree or refuse to suppress his evidence?

A. I don't recollect.

Q. Did you give any hint to Quarter-master Hawkins not to produce his accounts before this Court, and did you desire him to say he had been in fault and misled?

A. I might, but I am not certain.

Q. Was there any conversation of any sort between you and him, relative to the keeping back evidence or papers of any kind?

A. I rather think there was, but I don't recollect the particulars.

Q. Did you desire Quarter-master Hawkins to say

say before this Court, he had lost his books and papers?

A. I don't recollect I did.

Q. Can you positively say on your oath that you did not say so?

A. I cannot.

Q. On your oath, was your master totally ignorant of all the conversation you was to have with Quarter-master Hawkins, excepting as to what was contained in the paper in the Colonel's hand-writing?

A. I cannot positively say.

Q. Did you receive any directions from Colonel Burgoyne to endeavour to have any matters suppressed, or to desire Hawkins to accuse any person, or did the Colonel dictate any answers for Hawkins to make?

A. I don't recollect he did.

Here the Colonel read the 2d and 3d statement in defence of the 7th Charge, which is annexed.

2d INSTANCE—VII. CHARGE.

This Charge is too ridiculous, not to say malicious, to deserve any answer. At the time when I am charged with accusing Cornet Gregson of purloining a piece of buff leather, I had too good an opinion of him to believe him capable of it.

Captain Webster was called.

Examined by Prisoner.

Q. Have I not expressed myself to you concerned for any improper expression I might have used in warmth of temper?

A. In a conversation I had with you, I took an opportunity of mentioning the circumstance, and you denied your having said so, but mentioned, that if you had made use of any improper expression in the warmth of temper, you were very sorry for it.

Q. Were

Q. Were you satisfied with the apology I made you, and did you wish the transaction to be brought before this Court?

A. I was satisfied, as you denied having made use of the expression, and it was not by my request it was brought before this Court.

Cross-examined by Prosecutor.

Q. When did the Colonel make this apology?

A. I think on the 1st of September, between Drogheda and Dublin.

Cornet Mitchel was called.

Examined by Prisoner.

Q. Were you present with Lieutenant Jarvis, and Lieutenant Clarke, at the time when Lieutenant Clarke complained of his being dissatisfied?

A. I was.

Q. Do you remember what conversation passed?

A. As near as I can recollect, I heard you say to Lieutenant Clarke, that if I am so tight, you have not got the regimental spurs.

Q. Did you then hear me say that I would pinch the Officers?

A. I did not.

Q. If I had said so, do you think you must have heard it?

A. It might have been said without my hearing it.

It being 3 o'clock the Court adjourned till to-morrow at 11.

Wednesday

Wednesday, 13th November, the Court met pursuant to adjournment.

Private Deane was called.

Examined by Prisoner.

Q. Did you hear Serjeant Rotheram say any thing about the evidence he gave on this Court Martial?

A. He asked me if I had heard of Quarter-master Browne's misfortunes, I replied I had, and he asked me who I thought would have Browne's place.—I told him I supposed the oldest Serjeant; he asked me who the eldest was, I said Serjeant Major Alder, he replied, he was not the oldest Serjeant, for he Rotheram was the oldest by twelve months; and that he had got Major Cross, Captains Graham, and Bund at his side, and that he was sure of it.—That Colonel Burgoyne was done for to all intents and purposes, and said that he spoke up like a man in this Court.

John Perry Trumpeter, was sworn.

Examined by Prisoner.

Q. What did Serjeant Rotheram say in your presence concerning his being sure of the interest of the Prosecutors in obtaining the vacant Quarter-master's warrant?

A. He came into the room where I was present, we asked him how the Court Martial went on; he made answer "your uncle Dicky is done for, (by which I think he meant the Colonel) to all intents and purposes; some of us said, we were sorry for it:—In the course of conversation we talked of Quarter-master Browne, he said there would be a vacancy for some person, as Browne was dismissed from the Regiment; we said accord-
ing

ing to the King's regulations, as we heard, the oldest Serjeant would have it; he made answer, and said, that was *him*, I replied, it was either him or the Serjeant Major; he answered that he was the oldest Serjeant, as he was 12 months a Serjeant before the Serjeant Major had his discharge from another Regiment; he then said if Colonel Burgoyne won, he could not expect it; he said he did not care, for that he had Major Croffe, Captain Bund, and Captain Graham at his side.

Captain Webster was called.

Examined by Prisoner.

Shew those orders which relate to the accounting for the expenditures paid to the Captains of troops.

[Here Captain Webster produced the Regimental orderly book, from which the orders annexed to the proceedings were read; and marked, No. 15.]

Cross-examined by Prosecutor.

Q. Were not those orders that are laid before the Court, issued after the debts were contracted at Newry?

A. Yes.

Q. Did not Colonel Burgoyne engage to write to Newry for all these bills, and to get a gentleman at that place to have each bill regularly sworn to before a magistrate?

A. There was a gentleman got those bills, and had them sworn to before a magistrate, but I don't know of any engagement the Colonel made on that head.

Q. Could the Officers have complied with those orders of Colonel Burgoyne's, in paying the Newry bills before they received them?

A. No.

A. No.

Q. Did not those bills come to the Colonel at Loughlinstown Camp with regular affidavits, before he went to England in December 1798?

A. Yes.

Lieutenant Jarvis was called.

Examined by Prisoner.

Q. Do you know how much I have expended on the Regiment in contingent expences from my own private fortune since my last Court Martial in December 1797?

A. 518*l.* 18*s.* 1*d.*

Cross-examined by Prosecutor.

Q. Has the Colonel paid the first item now in dispute between you and him of 12*l.* 8*s.*?

A. It has been allowed me in account.

Q. How long was the 12*l.* 8*s.* due to you before it was allowed, and when and by whom was it allowed?

A. The account began the 17th December 1798, and ended 24th April 1799, and settled in account with the Colonel the first August last.

Q. Was that after Colonel Burgoyne knew of the Court Martial, and did he not refuse to allow you that sum until that time?

A. It was, but he never refused to allow it, nor was it ever in dispute.

Q. On the 2d item of the account, being 23*l.* 2*s.* for an hospital cart, and 19*l.* 19*s.* for another, is not one of those a jaunting car and not a cart, and have you ever known Colonel Burgoyne to lend it out to company as such?

A. One of them is made like a jaunting car, I believe Colonel Burgoyne had it for the sick, but I never saw it used.

Q. Is

Q. Is not the 4th item a sum of 315*l.* British given by Colonel Burgoyne to the men to induce them to accept the Irish pay, by which no Officer or man of the Regiment could be benefited but himself?

A. The item is for that, but I can't answer the rest of the question.

Q. What did Colonel Burgoyne say about having given the 300 guineas, at a general meeting of the Officers in Captain Webster's room?

A. He said nothing particular, but observed he would endeavour to get it from Government.

Q. Did not Colonel Burgoyne say that he was glad that he had done it, and that it 'was' always a good maxim to give up half, to save the whole, and that half a loaf was better than no bread?

A. Yes, it was nearly his expression.

Q. As to the charge of 138*l.* 18*s.* British for white jackets, did not Colonel Burgoyne make a present of them to the men at Newcastle, prior to his former Court Martial?

A. Yes.

Q. Did not Colonel Burgoyne say he was able to give them white jackets from a *saving*?

A. Yes.

Examined by Court.

Q. If Colonel Burgoyne made a present of the price of the white jackets before his last Court Martial, how could you admit the price of them in the sum total, which you have admitted Colonel Burgoyne had laid out for the benefit of the Regiment since that period?

A. At Newcastle the Colonel said he would give all the men white jackets, this was in August 1797, and some time after Christmas the Colonel wrote to me, to say that the men should be charged with them; they shewing some unwillingness, the matter

matter was deferred till we came to Newry;—the Colonel then said he would give them to the men, and desired me to draw a bill for to pay for them.

Q. If the Essex Regiment of Fencible Cavalry were on duty with any other Regiment of Fencible Cavalry, would it be any advantage to his Majesty's service for one Regiment to receive Irish pay, and the other British pay?

A. It would not be proper for them to be together, as one of them would be dissatisfied.

Q. Do you swear positively that Colonel Burgoyne expended the sum of 518*l.* 18*s.* 1*d.* from his own private fortune, and that no part of that expenditure has been recovered by savings on regimental accounts, since his Court Martial in 1797?

A. I can't answer that question.

Q. Was not an order received for the Regiment to embark for England, where they would be disbanded in consequence of their desire to leave this Kingdom?

A. I heard there was such an order, but I never heard the Regiment express a wish to go to England, for they were perfectly satisfied to remain in Ireland.

Q. Do you think the men would have remained in this kingdom perfectly satisfied, and have accepted the Irish pay, unless that Colonel Burgoyne had made a present of the 315*l.*?

A. They would not.

Q. Do you not then consider that the Regiment in general was benefited by this voluntary gift of the Colonel?

A. It kept them from being broke.

John

John Payne was called.

Examined by Prisoner.

Q. Do you know that I paid a sum of money to Haydon for changing two troop horses, and at what time?

A. Yes, some time in April last, but I don't know the sum.

Q. Did Haydon tell you that I should be a considerable loser in that transaction?

A. He did.

Q. What was the expence to me in sending you in care of the young horses to Liverpool?

A. To the best of my knowledge it was 6*l.* 2*s.* 0*½d.* British.

Colonel Burgoyne here closes his defence, and the Prosecutors requested the indulgence of the Court till to-morrow morning, first having read an address to the Court which is annexed.

Prosecutors at Close of Defence, address the Court upon having the Reply.

Before the Prosecutors address the Court in reply, they request to know whether Colonel Burgoyne has definitively closed his defence.

They do not mean to reply by adducing new evidence, but merely by observing upon that already adduced, and that being the case, they humbly submit to the Court that in all judicatures civil and criminal, the party complaining is entitled to the last word. They beg leave to remind the Court that on their part no case was stated; but the prosecution was commenced by at once going into proof—that Colonel Burgoyne besides stating a general Case, prefaced his defence to each Charge and item by a special statement—that he
still

still has the privilege of speaking to evidence, and that by the rules of all Courts the party defending speaks first to evidence, and the party complaining replies.

That what is called a rejoinder applies to evidence, and not to observation, and that if the prosecutors intended to produce a single witness more; Colonel Burgoyne would be entitled to such rejoinder, but as they disclaim any such intention, they humbly expect he may not be allowed (after their reply, which shall be strictly confined to observation upon the materials now before the Court) to further address the Court, much less to produce further evidence, which it will not be competent to them to rebut.

The Court then adjourned till 11 o'clock, tomorrow morning.

Thursday 14th November, the Court met pursuant to adjournment.

Captain Graham on the part of the Prosecution, addressed the Court in reply to the Prisoner's Defence from a paper which is annexed.*

REPLY OF PROSECUTORS.

MR. PRESIDENT and GENTLEMEN,
The Prosecutors forbear to adopt, in their reply, all personal and angry insinuation: they consider

* Captain Graham's Statement was read in open Court, together with a letter he also read from the Adjutant General to him, and his answer, which were permitted to lie on the table of the Court. See Appendix, No. 16.

such foreign to the investigation which occupies this Court, and therefore, they will proceed at once to make their observations upon the evidence now before you; and they appeal to that, and to this Honourable Court to decide between them and Colonel Burgoyne.

As to the first Charge—it appears undisputed, that his Majesty's Government has been uniformly charged by Colonel Burgoyne, 25 guineas for every horse recruited for the Essex Regiment. That 9 horses were purchased upon one occasion, at the most for 180*l.*; two horses, upon another, for 35 guineas; one upon another for 14 guineas; and 20 others for 420*l.* British. These are the only instances which have been brought before the Court. A very simple calculation shews, that on this number, the sum charged is 800 guineas, and the sum paid is 650*l.* 8*s.* British, the difference is of course, 189*l.* 12*s.* British. For this difference Colonel Burgoyne is bound to account, even if it be for a moment admitted, (which is humbly submitted to the Court's opinion, that a Commanding Officer is justified in charging Government in round sums which were not paid, and balancing the account by expences in other respects altogether discretionary as to himself, not Regimental, and which never appeared to Government, unless when exposed to view by investigations, such as the present.

But even so, it is submitted, that Colonel Burgoyne has by no means discharged himself of this large sum. If all the credits, to which he has sought by evidence to entitle himself, were above all suspicion, still they do not amount to any thing near the deficiency; and the Prosecutors humbly rely upon it, that these alledged credits are by no means of that indisputable description. Expences to the amount of 10*l.* 14*s.* are alledged to have been incurred upon the 9 horses bought by Payne at New-castle;

castle; a charge which the Prosecutors will not question, while they request the particular attention of the Court to the next credit expected by the Colonel, and which consists of about 21*l.* the alledged expence of four of those recruited horses, before they were put on the strength of the Regiment. It appears that for that *very sum*, Colonel Burgoyne has already had *credit at another time*, and on another occasion; but even if he had not, the pretended saving to Government, in this instance, deserves well to be analyzed. For every day that those four horses were kept at Colonel Burgoyne's expence, Government was charged with the keeping of five horses, which had been cast by a General Officer; these five horses were kept a considerable time after being *cast*, and then marched almost the length of the island to be sold in *Essex* for 18*l.* Thus, then, the transaction stands—Government, according to Colonel Burgoyne, is reimbursed for the over-charged price of four new horses, as far as 21*l.* by being obliged to pay for the keeping of five cast horses, which at last sell for less than 4*l.* each.

The next feature in this Charge, which well deserves attention, is, the purchase of two horses from Captain Webster for 35 guineas, for which Government is not merely charged 50 guineas by implication, but the Pay-master with one hand pays to the seller the full sum, and with the other receives the difference back, which difference is immediately placed to the credit of Colonel Burgoyne's private account: thus, upon the face of the public accounts a fraud and a falsehood manifestly appear, for whoever inspected those accounts would, *prima facie*, be induced to believe that the two horses were actually bought for 50 guineas. The Prosecutors rely upon it, that such a suppression of truth, and suggestion of falsehood, is of itself a badge of fraud, and stigmatizes the entire transaction with such suspicion,

that Colonel Burgoyne, in order to avoid or escape the imputation which results, must explicitly disengage himself from all participation in the business. And how does he do so?—By alledging that he was not then with the Regiment. But the Court will recollect that, on his return to the Regiment, he adopts the device which had been practised, and signs his name to an account bottomed on this very stratagem. He does not exclaim against the meanness or turpitude of the transaction the moment he detects it, but, by adopting it, makes it his own as much as if he had at first concerted it; nor does he even complain of it, either to Captain Webster or Lieutenant Jarvis, in all the long interval of time which elapsed from its first existence, until after he was furnished with the Charges which have brought him to this Court Martial. To this observation the Prosecutors beg leave to add, that, in this fabrication of vouchers, the Pay-master and Captain Webster could have no possible or imaginary interest. Whether Colonel Burgoyne had, or expected to have any, let his early adoption and tardy disavowal of the fraud determine.

The horse purchased at Newry for 14 guineas, next falls under consideration, without any thing particular as to the transaction, but simply the saving of 11 guineas.

The 20 horses furnished in Essex by Haydon deserve more observation. The very day they were put on the strength of the Regiment, two bills appear drawn in favour of Haydon, for 420*l.* precisely 20 guineas a horse. This is circumstantial evidence which, when coupled with the admission of Haydon, (Colonel Burgoyne's acknowledged agent in the transaction), seems to ascertain the price of these horses beyond dispute; and indeed Colonel Burgoyne appears not in any instance to have disputed the fact. He protects himself from its influence in a different manner, and among other things, alleges that

that something more than 23*l.* was charged by Haydon for the keep of those horses. The Court will please to recollect, that this defence at least is mistaken in point of fact, for these *very horses* appear to have been put on the *strength* of the Regiment the *same day* they were *purchased*; and of course no expence could have been incurred by Haydon for their keeping. The Colonel further alledges, that his next dealing with Haydon was for 9 horses for 262*l.* 10*s.* a rate above the Government price, and that his loss upon this transaction is to balance the profit upon the other. The Prosecutors confidently request, that the Court may examine the Pay-master's books, an investigation of which, when coupled with the Pay-master's testimony, will, they are convinced, leave no doubt that three other horses put upon the strength of the Regiment on the 7th of January, must be added to the nine, and their price included in the 262*l.* 10*s.* they are satisfied that no other price or payment for those *three horses can be found* on the *Pay-master's books*; and perhaps it is no small corroboration of this suggestion, that 262*l.* 10*s.* for twelve horses, is at the precise rate of 20 guineas a horse, (the rate of Haydon's former bargain) and 10 guineas over; an excess which may be accounted for by keeping, and other incidental expences of those horses, between the 1st and 7th of January. This remark is fortified by considering that the only other bills of that period in favour of Haydon, is one for 69*l.* odd, which appears *applicable to three other horses, distinct from those three*, delivered on the 7th as above-stated. The Prosecutors can recollect no other set-off against this first Charge, except the alledged employment of an extra Quarter-master as a purchase for the services of Quarter-master Payne in buying horses. This transaction altogether appears to them less proper for their remarks, than for the consideration of the Court. The Court will consider

der whether, upon the evidence of Lieutenant Jarvis, it appears that the motives of Colonel Burgoyne in appointing this extraordinary officer, an officer unknown to the service, were purely æconomical and disinterested. Whether Mr. Payne's services, as a horse-buyer (he having never bought but these 9 horses for the Regiment,) have been proved to be worth this singular and novel compensation; and whether, in fact, Quarter-master Payne was at all relieved in his duties by Quarter-master Starkey during this period; and whether Government can be said to derive much benefit from this arrangement, when the price paid to a man for buying horses cheap contributes to render them as dear in the end as the full regulated price.

Such has been the defence to this first Charge, upon which the Prosecutors will conclude with one remark—that when a Commanding Officer appears, in his accounts with Government, a defaulter to a considerable amount, he is bound to discharge himself therefrom by credits of the least suspicious and most authentic description; and that a man who professes to retain the public money in his own hands for beneficial public purposes, is called upon to account most strictly and unequivocally for all his disbursements.

As to the second Charge—The anxiety of the Prosecutors to consume as little as possible of the time of the Court, determine them not to pursue the evidence of this transaction in minute and tedious detail, but simply to call the attention of the Court to general results and obvious inferences.

It appears incontestibly, that the recruited horses in Essex were kept in Colonel Burgoyne's farms and straw-yards, and fed according to his private orders, in a capricious and irregular manner, at the same time that the feeding was charged to Government, as if these horses had been fed in the full, usual

usual and regular way. It appears also, that Cornet Sharpe, an officer commanding a detachment, was superseded by the Colonel's groom, and that the entire management and feeding of the horses under his command was left to the private controul and superintendence of *this substitute*. It further appears, that the horses were fed with different *mixed materials*, from the *Colonel's own stores*, supplied by the *Colonel's own bailiff*, and that the public was charged in the Pay-master's books upon this transaction in an account furnished by the Colonel himself, from documents in which he could not be mistaken, *his own stores, his own bailiff, and his own confidential groom*. That, as this account *stood*, the Colonel appeared a *gainer*, and that, after a long interval, and after this Court Martial was *notified* to him, he thought fit to make an *alteration* in that *very account*, by which alteration he would appear a *loser*. That this alteration was made, not upon any new lights or recent discoveries, but still from the old documents of the *bailiff* and the *groom*; and that in order to effectuate this alteration, a spoliation and mutilation of the public accounts necessary, and a *leaf was cut from the Pay-master's books* and another substituted; a change which the Colonel's conduct made necessary, and which he did not reprove when told by the Pay-master that such spoliation became necessary, from the defaced and mutilated appearance of the leaf; but so soon as it was done, with what sincerity this Court will determine, the Colonel expresses his disapprobation. It appears also, that he wrote to the Pay-master to make *savings* for him, and that savings were an object with him.—How he has accounted for those savings, the Court will determine; and whether he has expended them with such public spirit as to redeem the falsity of the Charge to Government, and the fraud of altering a public account after it had been *impeached by accusation*.

sation. Whether the management of the straw-yards partakes more of a job, or of that fair and open conduct which a Commanding Officer should hold to the public, the Court will determine. The Prosecutors only beg leave to suggest, that in ordinary cases, where any doubt exists as to a man's motives, it is often best explained by his own opinion of them; and that the transaction of the Pay-master's books evinces a consciousness in Colonel Burgoyne that may possibly solve any difficulties upon the subject; and they further beg leave to remark, that what Colonel Burgoyne has called the paternal and gracious admonition of his Sovereign, after his former Court Martial, should have instructed him in this, and all other instances to pursue the open and usual practice of the service, or at least where he deviated from it, to be prepared with the most accurate and unequivocal proofs of his having done so for blameless or laudable purposes.

The third Charge—Which relates to two horses taken from the Regiment, for Colonel Burgoyne's curricule, admits of no observation; the facts speak for themselves, and if the evidence be believed, the Charge is proved.

The fourth Charge—Which relates to Edward Saltmarsh's bounty, has something in it very particular, and as Colonel Burgoyne was not satisfied with defending himself from it, but also thought proper to make his defence, in this instance, the vehicle of much obloquy against the Prosecutors, they feel it a duty to make some observations upon it.

It appears unquestionably, that however this young man has been *late*ly reconciled to the stoppage of his bounty, he made it hitherto the subject of frequent complaint, and the Prosecutors submit, that when such a complaint came to their knowledge, it was such a one as they were called upon to subject to a serious investigation.

That

That Colonel Burgoyne should charge Government with this lad's bounty, and refuse to pay it to him, is certainly, *prima facie*, a charge of the first enormity. The Court will determine whether the explanation resulting from the patronage of Colonel Burgoyne, and the dependency of this young man, the request of his friends that the bounty should be withheld, and the many other and former favours conferred by the Colonel upon him, form a sufficient justification against the charge or not. But they will, also, please to consider that Saltmarsh's complaints prove that he did not originally acquiesce in the justice of this reasoning; that his necessities inclined him to dispute it, if he was able to do so (for it appears he was in *debt*, and under *stoppages*), and that Colonel Burgoyne's acts suggest, that even he himself was not without his doubts of the propriety of his own conduct: for if his favours and protection of this young man, if the request of the lad's parents were a sufficient reason for withholding his bounty at all, surely they would form a justification for not paying him to this hour; why then did Colonel Burgoyne pay him *immediately* before this Court Martial, and after he knew it was to be a subject of accusation against him? Why act inconsistently with the defence he was to make? For if he did right in paying him, he certainly did wrong while he withheld the payment, and no sophistry can reconcile the variance between these two defences to the same charge, the first of which is grounded upon the fact of payment, and the second upon the impropriety of that fact. It is one of the many instances with which this investigation abounded of Colonel Burgoyne *recently*, and *since he was accused*, patching up and salving over those errors in his conduct, which, but for this trial, never would have been known, and never would have been amended.

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What inference from these instances of consciousness in Colonel Burgoyne may result, is left to the Court, but the Prosecutors have been anxious to exculpate themselves from the foul insinuations of having tampered or practised with Edward Saltmarsh, insinuations which they scorn, and which, perhaps, could not come with a worse grace from any man than from *the master of John Payne*.

The next Charge—As to the work done in the Regiment, and the hiring of men to do the duty of those who were thus employed, is very simple.—That Colonel Burgoyne's orders and conduct were against the rules of the service and the articles of war, cannot be doubted; that it was attended with pernicious consequences, the ill-appointed state of the Regiment demonstrates, and as to the motives which might have influenced the Colonel, perhaps Mr. Armit's evidence can best explain them. The Court will recollect Mr. Armit's testimony, that Colonel Burgoyne was anxious to procure his Regiment to be put upon the Irish Establishment, and to have its establishment *antedated* from the time of its landing. This may account for Colonel Burgoyne's intention in the transaction, for it by no means follows, that a man is not influenced by a particular motive, because his speculation upon its success is eventually frustrated.

In the following charge, the arbitrary conduct of Colonel Burgoyne, in deriding and contemptuously treating the Court of Enquiry, next demands attention. The Prosecutors appeal to every man who knows and loves the service, and to the feelings of every gentleman who may command a Regiment in the absence of a superior officer, whether any thing can be conceived more outraging to Major Croffe, or more offensive to general discipline, than the conduct of Colonel Burgoyne in this instance. When under arrest, and in the hour of his humility, he requests

quests this investigation by Court of Enquiry; when acquitted and triumphant, he ridiculed it; and he conveys his ridicule to a subaltern officer, expressed in taunting and vulgar derision. The Prosecutors concede and admit for a moment (for argument sake) that all the decisions of that Court of Enquiry were absurd in the extreme, and they contend with humility, that even if they were so, Colonel Burgoyne should, for the sake of discipline, and from the respect one gentleman owes to another, and to himself, have expressed his disapprobation of it in a different manner. Colonel Burgoyne has thought proper to assert, in contradiction to positive proof, that this Court of Enquiry was never intended to discuss claims upon himself, and yet with an unaccountable inconsistency his defence against the subsequent charge of withholding Quarter-master Hawkins's money, consists in an assertion that Quarter-master Hawkins's claim should have been brought before that *very* Court of Enquiry, which, he asserts, had *no* right to take notice of any such claim. Certainly one of two things results by necessary inference, either that the Court of Enquiry was of that serious description that it ought not to have been insulted, or else that Quarter-master Hawkins is guilty of no default in not having submitted his claims to a tribunal, whose decisions existed only in the laughter of Colonel Burgoyne. But while the Prosecutors admit, for argument sake, the decisions of that Court to have been exceptionable, the fact is otherwise. The sum adjudged to Captain Bund is still unpaid. No one adjudication is, in any respect, impeached, and yet the whole is ridiculed and treated with contempt.

The conduct of Colonel Burgoyne in suppressing the official communication to the Regiment on the Irish pay business, forms another item in this Charge, which the Prosecutors, from the peculiarity and delicacy

licacy of the transaction, forbear to remark upon in detail; and prefer to leave to the consideration of the Court, without further observation. Whatever is doubtful or mysterious in it, may possibly be explained by Colonel Burgoyne's conduct in other respects; and perhaps the very circumstances of Colonel Burgoyne's communicating, without *any authority*, a rebuke from the Duke of York to Lieutenant Colonel Scudamore may, in itself, be a characterising feature.

The other items of this Charge will be best explained by the evidence; but there is one circumstance, in Colonel Burgoyne's defence, which the Prosecutors feel themselves bound to animadvert upon. He has answered in one respect, the charge of sending officers upon duty out of their turn, by a wanton and cruel attack upon the character of Cornet Ellis. This unfounded insinuation against the character of a gentleman of undoubted loyalty and integrity, is not merely unjust, but the Court will please to consider the propriety of sending a man of suspected principles, to a distant and separate command; and, in this consideration, will be able at once to estimate the futility and illiberality of the defence. After this remark, the Prosecutors proceed to remind the Court, that the last and serious charge of scandalous and infamous behaviour, unbecoming the character of an officer and a gentleman, is principally supported by the evidence of Quarter-master Hawkins. This transaction is simply this—that Colonel Burgoyne being indebted for a considerable time, on a regimental account, to this man, in a sum of upwards of 40*l.* (an account which he has not only been unable to impeach, but which has been substantiated by Captain Webster and Quarter-master Payne), suffered him necessarily to run in debt, and be in various ways distressed for the payment of it, and, in spite of the frequent applications

applications of Hawkins, and in defiance of the positive orders of General Needham, altogether neglected to pay or settle the demand, and never even offered to consider it, until, in the course of this trial, he deputed his *groom*, *John Payne*, for that purpose, the *object* and *success* of whose mission the Court is already apprized of.

And further—that when, on a private account, the Colonel appeared indebted to Hawkins in near 6*l.* besides 23*l.* of which in a former settlement Hawkins had defrauded himself, (and which possibly Colonel Burgoyne did not discover till afterwards), he suffered him to be obliged to leave his *horse* behind him at Dundalk for his expences, and, (exclusive of the injury to the service from his being *thus dismounted*,) to be reduced to the greatest distress since that period. To this transaction Colonel Burgoyne's only defence is, that Hawkins was in debt to the Regiment. But does it appear that Colonel Burgoyne paid Hawkins's debts to the Regiment? It is wonderful that he should be in debt when the *Colonel* was so much in debt to *him*, long previous to his having contracted any debts himself? Besides, let it be remembered, that Hawkins's principal debts were contracted by the extraordinary traffic between him and the Colonel, in regard to necessities—a *traffic* which the Colonel thinks *creditable*, or probably he would not have mentioned it, but of which the Court will judge. And, finally, let every doubt upon this and the other transactions of Colonel Burgoyne, be solved by that fact, which the investigation of this charge has disclosed—the *interviews of the groom* of Colonel Burgoyne with Quarter-master Hawkins, during the very *pendency* of this trial. This fact now, vouched as much by John Payne himself as by Hawkins, best speaks for itself. The Prosecutors, however it may influence or favour their objects in this prosecution, deeply and
sincerely

sincerely lament, for the honour of the British service, and for the character of a British Officer, that such a transaction was ever exposed to public view.

The next instance of this charge is the public insinuation against two officers for purloining the materials of a sword belt; Colonel Burgoyne affects to treat this as a jest, but the Court will recollect his *immediately* going to the stores to *measure the buff*, and will then judge for themselves whether it was jocular or otherwise. The orders issued at Drogheda best speak for themselves. Colonel Burgoyne alledges those orders were not pointed at the Prosecutors, but they request the Court to recollect that they were issued *immediately* after he and the Regiment were acquainted with the charges brought against him; and to consider whether, if these orders were so understood by the Regiment, the consequences would not be injurious to military discipline in the highest degree.

As to the Colonel's extraordinary and indecent language, respecting Captain Webster, Lieutenant Clarke, and Cornet Daniel, the Court will determine whether the Colonel's alledged warmth of temper, palliates what it cannot justify; but they rely upon it, that such conduct strictly deserves the epithets of unofficer-like and ungentleman-like.

So far the Prosecutors have proceeded in observing upon the specific charges, and Colonel Burgoyne's specific defences to them; but it yet remains for them to remark on evidence adduced by him at the conclusion of the trial, and which seems to have been intended as a general sweeping and indefinite answer to all the charges of pecuniary defalcation. The Prosecutors allude to his account of contingent expences, alledged to be paid out of his own fortune: and in the first instance, before they canvass the items, they object to and dispute it altogether, as any defence to the specific charges brought

brought forward against him. They submit that it would be of the most injurious consequences if Commanding Officers were suffered to justify particular defaults by general instances of discretionary disbursements, casually and capriciously made.— They rely upon it also, that the items of this account cannot bear the light when examined. They consist principally of two items, 138*l.* 18*s.* the price of white jackets, alledged to have been a present from the Colonel to the Regiment, *antecedent* to his former Court Martial; and 300 guineas, the amount of a *douceur* to the men to reconcile them to Irish pay. The first sum, the Court will recollect, has been proved to have been defrayed by Colonel Burgoyne out of *former savings*,; and, it is in proof, that he himself alledged that “*saving*” to have enabled him to make his present; of course it is highly unreasonable that Colonel Burgoyne should, after *saving* it before, to be allowed, first, to make a character for *bounty* in presenting these jackets, and, secondly, to claim it as a *credit* against money *subsequently saved* in purchasing and feeding horses. In short, Colonel Burgoyne seeks to have *two credits*, against his deficits, for a sum which did not originally come out of *his pocket*. And the Court cannot forget that the *very year after* he made this *present* of jackets, he *endeavoured* to charge them to the *men*.

As to the other sum of 300 guineas, the Court will remember, that the defaults imputed to him by this prosecution have been incurred *long* previous to his having made this disbursement; and when the occasion of it could never have been in his contemplation. When money was saved in Essex on the purchase and feeding of horses, Colonel Burgoyne could not *then* have foreseen that the Regiment would have required it at a future day, as an inducement to submit to Irish pay. Colonel Burgoyne

goyne could not prophecy this, and we do not find that, in the *interval*, he made any *one* attempt to reimburse Government for the saving so made.— Were it not for this accidental *douceur* for the Irish pay, there would not remain a shadow of preference for this alledged credit: and, as it is, the Court has heard it proved, that Colonel Burgoyne had declared his intention of charging this, his munificence, to the account of Government; and it will not be *his* fault if the charge be not allowed.— Moreover, the confusion, uncertainty, and dissatisfaction which prevailed in the Regiment on the subject of the Irish pay, rendered this boasted act of generosity necessary to save the Regiment from being broke, and if the Court, upon recollecting this transaction, as detailed in Lieutenant Colonel Scudamore's testimony, should think this necessity occasioned by Colonel Burgoyne's *own conduct*; they will, perhaps, be not much inclined to give him credit for the disbursement which was the consequence of it.

The Prosecutors having made these observations, leave to the Court the determination of a business, which they were induced to bring forward solely from motives of duty, and from a conviction that the public service required this solemn investigation.

The Prisoner then requested the indulgence of the Court to read his rejoinder, which is annexed.

COLONEL BURGOYNE'S REJOINDER.

MR. PRESIDENT AND GENTLEMEN,

You are now to decide whether I am to be found guilty of the crimes laid to my charge or not.

not. Whatever confidence I may feel in expectation of that decision in favour of my innocence, I cannot possibly omit, in a case of such extreme importance to me, to say what occurs to me by way of observation upon it. I am charged as Colonel of my Regiment with having embezzled the King's money, in purchasing horses for my Regiment at inferior prices to the regulation. I am charged with having embezzled the King's money in the allowance for the food of the horses of my Regiment. I am charged with various other transgressions of an inferior nature: in the two first charges I am accused of speculation and fraud respecting the mounting of the Regiment, and the care of those horses. A Regiment which to my pride is acknowledged to be among the best mounted in his Majesty's service; horses can only speak by their looks and actions, but could they be witnesses here for me, they would testify that I have not defrauded them. Sir, you are to decide whether I am that guilty and mean embezzler and speculator or not; after 19 days continuance of this trial, I beg to recall your solemn, serious, and honourable attention to the amount of these Charges, and the manner in which the guilt has been attempted to be fixed on me. Has the prosecution been that of Prosecutors highly impressed with the necessity of public justice, impelled merely by that necessity to call for justice upon a notorious offender, or has it appeared that any other motives induced them to call me before you and the world as a culprit? has it appeared a case in which I ought to be brought to trial by Court Martial upon the Charges, or has it appeared an accusation sought out by some other motives, than military necessity, or honourable duty? Sir, the Colonel raising and commanding a Regiment of Cavalry, has, as you all know, great and arduous

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employments

employments to fulfil; you know that besides serving with his life and honor at stake, the care of his Regiment and its discipline, the government as it were of a common-wealth are entrusted to him as its regulator and chief. He has also many minutiae to direct in the internal concerns of his Regiment; expenditure of money and dealings to transmit down to the very feeding of horses. Although much of this is devolved of necessity upon others, the officer at the head feels the burthen of all, and the burden is great if honourably borne; so the honor, dignity, and support ought to be great. But more than commonly honourable and happy would that Officer in such a situation be, against whom no other Officer in his Regiment, watching an opportunity, come not some day of his life, in some of his departments, make use of the letter of the law against him. I have had the honor of commanding the Essex Light Dragoons for some years; that duty I have discharged to the very best of my abilities; the Regiment is visible, and shews itself in this country where we are. I obtained the situation not for emolument which I did not want; it was my own pride and honor to expend money upon it; I neither regret my expences, nor value myself, with you upon them, but must say that my views were not to make a mean and paltry profit in stinting the price of horses for that Regiment, or in defrauding those horses of their proper food. But it is my misfortune that offence, by some means or other, has been taken by my Prosecutors against me; if their prosecution has been founded on mis-apprehension or mis-information, they should long ago have declared they were deceived. To enter a little into the particulars of the Charges, and first, with regard to the purchase of horses. The first period in question is November 1797, and the horses in
question

question upon that point are 9, for which it is said I paid 180*l.* British only, because the money paid down by Quarter-master Payne at the fair for them was but so much, and they therefore charge me with embezzling the difference between that sum and 25 guineas each for these 9 horses. Now Sir, see how easily, by considering what is proved, and with a little trouble of calculation, this spurious charge is done away; horses are not to be bought at a given hour or place; some of those horses were not wanted at the moment of buying them, but the fair at Newcastle was the place and time to provide them. I was to keep those that were not then wanted, until the day of putting them on the Regiment, at my expence; four of them were so kept until the end of January following; this added to their price or expence 20*l.* 3*s.* 9*d.* Quarter-master Payne was to go to this fair, and his expence encreased the price of the lot of horses by 10*l.* 14*s.* The Quarter-master so employed, was a 7th Quarter-master, at a salary of 100*l.* per year, which salary (and most beneficial it was to the Regiment) was to be charged to the price of the horses of the year; there were besides the expence of nicking and of drugs. Allow one quarter of a year's salary of this purchasing Quarter-master; add it to the price paid in the fair, and the other expence mentioned, and you will find the 25 guineas for each horse overpaid. Is not this plain, is it not rather to be wondered at, that a Colonel, in my situation, can at this time shew so full and exact an account; for I hope it is understood that I needed not obey any necessary practice or rule to keep books of those transactions, as it appears I did not. Now which of those articles can be disallowed as composing the real price in which the horses stood me, or at least so disallowed as to charge me as guilty

of procuring horses at too low a rate: but it is said that the 20*l.* 3*s.* 9*d.* ought not to be allowed, because the 4 horses that I incurred that sum in keeping, until borne on the Establishment, might have been sooner received by casting and selling by auction. These 4 old ones did the duty of carrying soldiers upon furlough, some of them not able to walk, and though one horse of them died, and two were shot, I paid the Regiment more than they would have brought by auction. I should have been happy to explain this business of the cast horses, had I been permitted so to do; but suppose I might have put the 4 new ones on the Regiment sooner, does that prove that they cost me less; does it prove more, than by more exactness I might have had them somewhat cheaper: again it is said that 25*l.* for the Quarter-master's salary ought not to be allowed, because Starkey was not a necessary 7*th* at that time, and did not do Payne's duty that quarter. I could not, and would not discharge Starkey at that juncture of his being expected as a witness against me on my Court Martial, and if I ought to have done so, this would only prove that I might have had the 9 horses 25*l.* the cheaper, by a bad, sharp, conduct, that I could not have approved of myself; thus I hope I have satisfied the Court as to the 9 horses of November 1797, but I would remind the Court that the true question upon a Colonel's purchase of horses for his Regiment cannot be decided alone upon the purchase of any one horse, or lot of horses: it would be impossible and absurd to argue, that every horse must be at the same price, none more, none less, than 25 guineas. A Regiment in that case would be ill mounted, or not at all mounted: I have paid much more than 25 guineas for a horse, and sometimes less; I have given upon the whole more than 25 guineas per horse, including

ing the attendant necessary expences of purchase, and so you will see by more calculations on the proofs made. It would indeed have been some evidence against my manner of shewing the expence of these 9 horses, if it had appeared they were bad, unfit, or not worth the price stated, on the contrary it is admitted they were as good as any that ever came to the Regiment; and this observation equally applies to the 3 horses next in question, charged to be bought for 20 guineas, 15 guineas, and 14 guineas; if I bought them cheap, the King and the Regiment have the benefit, for you will see the balance of the expence of these individual horses expended in others in question, as I shall mention. Then comes a charge of 20 horses in October 1798, said to be bought for 420/. British, or 20 guineas each: as to the sum paid for these horses being 420/. and no more, the evidence depends upon the hearsay of Haydon the dealer, though the written receipt of the same Haydon given to me for price and expence of other horses was objected to; you will I am sure give the like measure of evidence to the Prisoner, and to the Prosecutor; and if you can admit such evidence against me, as to the price of the above 20 horses, being 420/. you will admit my evidence of the expence about those horses in question, by which it will appear to you that upon the whole horses, 47 in number, here in question, I expended more than 25 guineas each, by above 20/. I am advised to insist that the evidence as to the price of the 20 horses is not proper or admissible evidence; and in case I am not to have the full benefit of the receipt I mention, I must in justice and reason rely on that objection. I must even take advantage of the decision of Colonel Muray's Court Martial, and at least lay before you the opinions of three of the most eminent council in
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Great Britain; then supposing that on the one hand you admit the Prosecutors evidence, on the other hand admit mine, particularly as I have shewn that Haydon could not come here. See how the matter stands, if I paid but 420*l.* British to him for the 20 horses, yet I paid him also 23*l.* 8*s.* 9*d.* for their keeping as per receipt; I paid on the 1st January following, that is 1799, 262*l.* 10*s.* to him for 9. I paid him on the 1st March 1799, 189*l.* for 6 horses, which is at the rate of 30 guineas per horse. I paid him 20*l.* for exchange of two horses, as per his affidavit; and I paid 21*l.* on exchange of another horse, as proved by Captain Webster, and Quarter-master Payne, to which, adding the drugs and nicking, and the sending to Liverpool; it appears that the horses have stood me in 24*l.* 6*s.* 2*d.* more than 25 guineas per horse for all those in question. And I beg to lay before you the account shewing this statement; and when the Court has considered it and the evidence, I would ask, have the Prosecutors satisfied the Court that I am guilty of the charge as to the purchase of horses or not; have I ordered any person to lay me in horses at 20 guineas a piece at the most, as in a case in Scotland which may be adverted to? have I contracted that the horses of the Regiment shall not stand me in more than 20 guineas each, or any other sum less than 25? have I shewn any disregard to the quality of the horses, or offered to take any that I had not seen at a low price? as in that case 25 guineas are allowed, as the letter of service expresses it, for the purchase of horses, and though it is not said on the one hand, nor ever could be intended, that 25 guineas should of necessity be paid for each individual horse; nor that the Officer should be at any moment guilty if he did not expend every fraction, pound, or shilling on the horses; so on the other hand

hand I do think and argue that he ought to expend as nearly as he can the whole money upon the horses in his Regiment in general; and I think he is a guilty man if he contracts for the horses of his Regiment at an inferior price and expence, instead of taking care that there shall be good and proper horses as far as 25 guineas will procure them. I believe it is scarcely necessary to answer a suggestion that is made in opposition to my charge of 262*l.* 10*s.* for 9 horses on the 1st January 1799. It is suggested that the three horses bought in on the 7th January *might* have been included in that sum, and so that I might have paid 262*l.* 10*s.* for 12 horses, instead of 9. My answer is, that it is strange to conjecture that horses were paid for before they were bought; and if a further answer be necessary, I happen to have demonstration. Look into the Pay-master's recruiting account, and there appears, that from the 9th of December, when the last of the 9 horses were bought, until the 1st March inclusive, when I paid 189*l.* for 6 horses, there were no more than 6 horses in all bought, so that in fact there were no horses to be included with the 9 in the payment of 262*l.* 10*s.* This is expressly proved, proved by Haydon's receipt of the 1st March, and as to the acceptance of the receipts, surely no doubt can exist after the strong opinion that has been given by Colonel Nappier, Comptroller of Army Accounts. Can this Court doubt of my giving 30 guineas per horse, after Payne has informed you of the message I sent to Haydon, and of the commission I gave to him? has not Quarter-master Tate sworn that I gave him a commission to purchase for me 6 horses, at a price 10 or 12 guineas each above the regulated price? and now Sir, I have done with the charge of the purchase of horses: and as to the charge of the feeding of the horses, I shall

shall next trouble you, and that with but few words. In this charge I am called upon, not that horses were injured by defrauding them of their food, not that I have pocketed a large sum of money by a general course of under-feeding them, not through a year or season the proper quantity of oats have not been eaten by the horses, but I am called upon by the peril of a conviction to prove to you that in a certain period of about 10 weeks from the 14th August to 24th October, when I was absent, every pound of oats at 8lb. per day for about 40 horses was given. Now Sir, need I observe more upon this charge, than that the account given of it by Cornet Gregson, does not tally with the account given by those who were on the spot, and conversant in the matter, Payne, serjeants Ruggles, and Purnel, and Daniel Deane. I hope to satisfy the Court that Cornet Gregson's evidence cannot be exactly understood, as he gave it in respect of the quantity of oats given from 30th August forwards. Observing the evidence of those 4 persons, the Court will find that though it is true that the 40 horses were ordered to have, and had but $\frac{1}{2}$ peck per day from the 14th to the 30th August, yet that from the 30th August until the 24th October, they had $\frac{3}{4}$ which was within 1lb. per day of the allowance of .8lb. and that after the 24th October they had over-feeding more than balancing that deficiency of 1lb. per day; and also the Court will find that I paid for feeding on recruiting parties in market towns, beyond the regular feeding at home, more than would shew that in the period charged, I have not withheld upon an average any of the food of those horses. One account made up by the Prosecutors and built on Cornet Gregson's evidence against the testimony of the other 4 witnesses, states the under feeding to be to the amount of 34*l.* 1*s.* 8*d.*
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another account made up by them, admitting Cornet Gregson to have been mistaken, from the 30th August, states the under-feeding during the same period, to be to the amount of 12*l.* 4*s.* 2*d.* and against this 12*l.* 4*s.* 2*d.* which is the utmost to which they strain the charge, they do not take into account the recruiting extra feeding. I have been able to shew (and the account produced by me to you will explain it) that the savings in the period mentioned, could not be more than 2*l.* or thereabouts, which was more than doubly expended on the recruiting parties. The exactness of this account is proved by the Pay-master's evidence, to which I beg leave to refer you; now Sir, could a more accurate account be expected from me: and will you please to recollect that if a much greater difference had appeared, I could have done no more at the time than as I did, to give orders that whatsoever quantity of oats was directed by the Officer of the time should be supplied. But a paper has been used by which, I admitted (it is said) that an over-charge had been made by me; the explanation of that paper is, that at that time the account of the oats shipped for the voyage at Liverpool, 21*l.* 15*s.* and of another sum of 7*l.* 18*s.* 1*d.* to the Pay-master, had neither come to my hands, nor to my recollection, and of course a deficiency to their amount appeared, which was totally unintelligible to me until those accounts appeared; and therefore during my error in that respect, I wrote the paper produced against me, and I conclude this charge of feeding, by hoping that the Court will not consider whether I have, or have not been able to give such account of every pound of oats for a Regiment, as a groom ought to be able to give for a pair of horses; but that the Court will consider whether or not there has appeared a reasonable ground for bringing me to a Court Martial on the article of feeding; and I hope that the

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Court will consider whether a Colonel, who is acknowledged to have expended 500*l.* of his own money for the Regiment, within the two last years, is likely to have been guilty of wilful, mean, petty fraud, against the horses of that Regiment; one of my Prosecutors having insinuated that I may possibly have paid a large price for horses, and received a part back again, instances the 15*l.* 15*s.* which were returned for the three horses purchased in Ayr. I therefore request the Court to refer to the Pay-master's and Adjutant's evidence, by which they will find that I was absent at the time, that I found fault with the transaction when I heard of it, and that this is the only instance of the kind. I beg leave to remind the Court that if there had appeared a balance against me, in the feeding account, I could with great justice have defended it; for about one thousand bushels, the quantity of oats issued in Essex, I only charged 3*s.* per bushel; whereas it appears by Cornet Daniel's evidence, that I was charged by Officers, 3*s.* 6*d.* 3*s.* 9*d.* and 4*s.* per bushel; the lowest market price was 3*s.* 6*d.* which makes my undercharge on a thousand bushels amount to 25*l.* The Court will I hope recollect that I offered to produce my books which shew the delivery of every atom of forage delivered: these books were not kept by me, but by my agents; and were made up at a time when I had not the smallest suspicion of a Court Martial. An affidavit is also made of their authenticity and correctness, but I have no doubt that the Court is satisfied with the statement of the oats that I have given. I beg leave to direct the particular attention of the Court to the answer which I have delivered to the Charge, accusing me of withholding money from Quartermaster Hawkins, I have mentioned a few items so unreasonable, that I always refused paying them,
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but expected that he would have brought them before the Court of Enquiry at Haddington, as his account was certainly a Regimental account, and not a troop or a private account; but even had every item in his account been just and correct, I contend that I should have done wrong to pay him 35*l.* when he owed near 70*l.* to my troop, and the Lieutenant Colonel's. I am very willing to leave the account to reference, as I before proposed to him. The Prosecutors endeavouring to prove that when I gave the men three hundred guineas as an additional bounty, I had only my own interest in view; ask the Pay-master if any person in the Regiment could be benefited by their being put on the Irish Establishment, except the Colonel? the Pay-master gives a simple negative, but says not a word of what he knows, and what he heard me say, that it was impossible for me to receive any benefit; he heard me declare to the men in the most solemn manner, that I disdained to receive any advantage, and that if there should be any savings in the off-reckonings, it should be expended for the good and comfort of the Regiment, for that I would not accept a shilling for my own private advantage; on being asked if the Regiment was benefited by my paying that sum, he hesitates, and can hardly persuade himself to declare it, though he knows full well that his own 15*s.* per day as Pay-master would long ago have vanished, if I had not been at this expence. As to the white jackets which I gave the men, to the amount of about 138*l.* the gift was certainly made in September 1798. The jackets were delivered sooner, and were intended to make part of the clothing due from Government, but when I found that I could not charge them, I ordered the men to pay for them; I certainly should not have given them at my own expence, if they had not volunteered

volunteered to this country: thus this Irish expedition has cost me 515*l.* and 138*l.* making in the whole 653*l.* British; it has also cost me twenty-one days, not the most pleasant in my life, but if the Regiment has an opportunity of proving itself useful to his Majesty's service, I shall neither repent of my loss of money or time; the Court will perhaps expect a reason for my committing the feeding and travelling the recruited horses to my servant John Payne, instead of my Officer Cornet Sharpe, I could have brought sufficient proof of my having a very good reason for so doing, but the Court did not seem to wish me to throw any blame on my Officers. I will only say, that I have reason to think, that if I had entrusted the horses to Cornet Sharpe, they would all have been spoiled. The Quarter-master-General in England on being told that I meant to send them to Liverpool, as I did send them, very much approved of it, as too many proofs have appeared during this trial of a want of harmony among the Officers; I confess I do not feel myself a little hurt, that I am prevented explaining to this Honourable Court, and to the public, from whence this unfortunate division arises. I was desirous not only to confute the charges brought against me, but to shew that my treatment of my Officers has been gentleman-like and kind; and that I have not abused the powers given me by any necessary harsh treatment; and here I beg leave to remark that the only instance of supposed severity brought against me, is the sending my Surgeon's Mate on detachment, though a witness appears in support of the last Charge, and accuses me of making the Officers and men under my command, *completely unhappy*: that the Officer who makes this complaint should feel himself pinched and unhappy, though it may give me much concern, it cannot occasion my surprise;

prize; the investigation of his conduct has been a painful and necessary part of my duty. The public will soon know how I have performed it: I believe I need not say one word more to prove that the men are neither unhappy or dissatisfied; they have taken every possible means to express their attachment to me, though it has been an offence punished by confinement, to say that they had been treated by me more like a father, than a Colonel; and I must confess that the command of the most celebrated and highest disciplined Regiment in his Majesty's service, would afford me very little satisfaction if I did not command the hearts of my men as well as their persons, and if those whom I governed were not happy men, as well as good soldiers. Nothing however can go on well without a strict discipline; and the more a Commanding Officer feels himself responsible for every part of his Regimental concerns, the more necessary he must find it to require the same responsibility for those under his command. For my own part, I feel this responsibility to so strong a degree, that I have often said that whenever a Regiment behaves ill, the Commanding Officer should be the first sacrifice; from a correctness of a voucher, to the perfecting the account by witnessing the signatures before the magistrate, I consider myself responsible; from the repair of an accoutrement, to the grand object of leading the Regiment into action, I feel myself accountable to my Sovereign; but without a proper support, how can a Commanding Officer perform these serious duties of his profession; if Captains of troops take every means to make the men dissatisfied, if the moment the Commanding Officer's back is turned, the parades, and stable duties are neglected, if they will not account for money committed to their care, and their troops are distressed for subsistence, if they either care-

lessly

lessly receive the vouchers for the forage, without the least examination, or if examined, connive at the frauds and forgeries that are observant to any common eye; if the Subalterns acting as Clerk's of troops, forget the trust reposed in them; commit every sort of fraud accompanied by a crime that the vengeance of the law has marked with death; are they or the Commanding Officer to blame, are they, or is he guilty of scandalous and infamous behaviour, unbecoming the character of a gentleman, and an Officer? If after such conduct they be *completely unhappy*, as it has been emphatically said by a witness; and even should they by the vengeance of the law be pinched, the Commanding Officer rejects, though he cannot prevent it. I have had the honor to inform you that it was my intention to expose the most inveterate and blackest conspiracy that ever appeared before a military tribunal, but as I have not been permitted to bring forward proofs of the malice, and sinister views of my accusers, I must depend on the impressions that have been made on the minds of the Court during this trial. The testimony however of Captain Webster, short as it is, must prove the difficulties under which I laboured to reconcile the men to the pay of this country; and I do assert that when Government had expressed their intention of putting them on the Irish Establishment, the telling them on the public parade, that *it was very unfair*, was very near indeed exciting them to mutiny. It would have been much better not to mention the Duke of York's letter at all, than to have mentioned it in this manner, but to shew from whence this Court Martial originated, it was my wish to prove what I might easily have done, that the Lieutenant Colonel said, that if I persuaded the men to accept the Irish pay, he must quit the Regiment; and that when I persuaded them, he
told

told the Adjutant that the business could not end without a Court Martial. The Court must I think have been entertained, by being told by Captain Graham that he had drawn up a memorial for the men, not with an intention of giving it them, but for his own private reading: supposing that a new constitutional code had been discovered in the house of one of the rebels of this kingdom, written in his own hand writing, and he said that it was not intended for publication, but only designed for his own private perusal; how far would this excuse have been permitted. I cannot help taking notice of the extraordinary reason that Captain Graham gives, for going deep into the enquiry concerning the suppression of a letter from his R. H. the Duke of York: I did not expect to hear the name of the exalted character that governs this country, brought forward on this business; much less that the most distant suspicion should arise that the mind of that distinguished personage could be prejudiced against any individual. But Captain Graham boldly asserts that the Prosecutors have reason to believe the mind of Marquis Cornwallis is prejudiced against them; this declaration is consistent with their conduct, for being dissident in the redress to be obtained in this country, they make an appeal to the Commander in Chief in Great Britain. I now come to a very unpleasant part of my reply, but as the Court has referred many things to my Pay-master, imagining, doubtless, that it is impossible for him to be hostile to me, I must make some animadversions on his evidence: and here I must observe, that whatever may be the issue of this trial, I shall always feel the injury I have received from my Prosecutors; for by arts the most extraordinary, and contrivances the most insidious, the affections of those whom I thought most attached to me by every tie of gratitude, have
been

been seduced. Considerable influence has been made use of to detach a once grateful young man from his benefactor. Every part of his evidence must prove this to be the case. He confesses that he told me my expression of Webster was, that it was a d——d rascally piece of business, but in Court he says, that on Webster's asking him, he told him that I had called him a d——d rascal, but that *he did not wish* to remember it, and therefore asked Cornet Daniel, who assisted him in recollecting that my expression was a d——d rascal. His evidence, concerning the letter received on the 19th from the Duke of York's office, is still more extraordinary; the folding up of the letter is what seems to have made the greatest impression on him. Is it not next to impossible, that two letters from Colonel Brownrigg's office, one public, and one private, should have been received on the same day? And does it not appear that the official communication to the Government of this country was at last communicated by letter to Colonel Littlehales. The Pay-master corroborates Lieutenant Clarke's evidence, by saying, that I declared that I would pinch the officers. It happens to be an expression I never made use of; Cornet Mitchel was present at the time and never heard it, on giving his evidence concerning the recruited horses, unasked, he conveys to the Court the idea that 3 horses recruited on the 7th January were bought on the 1st, and included with the 9 horses that were paid for on the 1st January. I have already proved that this was not the case. His conversation with Langton concerning Brown shews how ill he is inclined towards me. I must now, Sir, endeavour to express my acknowledgements to this Honourable Court, for the indulgent and patient hearing they have given to me, and my Prosecutors: I feel myself as much indebted for the attention they have paid to their complaints, as to my defence. Their
whole

whole collection of charges has been closely scrutinized, and every thing raked up that could appear improper in my conduct for the last five years.—The result of this enquiry I am not afraid to meet. I submit to you whether I have abused the powers given me in the purchase of troop horses under the regulated price, whether I have disobeyed his Majesty's orders in turning them out to grass, and feeding them short of their allowance with a view to my own emolument; whether I have injured his Majesty's service by taking two troop horses for my carriage; whether I have embezzled money intrusted to me; whether I have wilfully disobeyed his Majesty's instructions, by ordering that repairing work in the Regiment should be done by certain non-commissioned officers and privates, and none others; whether I have behaved in an arbitrary manner to the officers and non-commissioned officers, in four instances which my Prosecutors have given; and, lastly, whether I have been guilty of scandalous and infamous behaviour, unbecoming the character of an officer and a gentleman, in three instances mentioned by them. And should these Charges be found such as they ought not to have been made, I beg the Court to consider what the natural consequences to his Majesty's service must be, if Officers are encouraged to employ themselves in seeking ground for accusation and enmity against their Commanding Officer, and in putting such enmity upon every fancied occasion into offensive and degrading language and proceedings against him, instead of attending to their duty and giving an example of discipline and order in the Regiment. But, Sir, I do not only submit to you the consideration of those Charges, but entreat you to determine on my general conduct, and to ask yourselves whether there is a probability of the existence of any impropriety in my conduct, besides those

Charges brought forward : my public and private accounts, my private correspondence and conversation have been fully exposed before you, and my Pay-master has not only told you what he has been asked, but all that he knew, adding arguments and reasons not altogether favourable to my cause. I say fortunately for me, he has done so, and what discovery has been made?—Is there a single instance of false return, an irregular act, or even error, in any account or return?

I, therefore, with confidence, look up to you and this respectable Court, not only for an honourable acquittal, but redress against a prosecution originating in some other motives than those on which a Court Martial should be called for, and carried on with an asperity that has seldom appeared within these walls. Sir, I have the fullest confidence that you will shortly restore me to that honest character that I possessed before this cruel accusation, and that you will enable me to command a most loyal, attached, and satisfied Regiment, and make use of my sword, which I drew for no other purpose than the defence of a beloved Sovereign and his loyal subjects.

The Court then adjourned till to-morrow at
11 o'Clock.

Friday, 15th November, the Court met pursuant to adjournment.

The Court sat the usual hours this day, and the same on Saturday, Monday, and Tuesday, by regular adjournments, in reading the proceedings and giving its opinion on the several Charges

Wednesday

Wednesday, 20th November, the Court met at 11 o'Clock, finally to close and sign the Proceedings.

Lieutenant Colonel Legge, of the Royal Irish Artillery, being taken ill in an early part of the Proceedings, was not present when the Court gave its opinion.

OPINION OF THE COURT.

The Court having taken into their consideration the evidence adduced on the trial of Colonel Montague Burgoyne, of the Essex Regiment of Fencible Dragoons, finds that he is not guilty of the first Charge against him, and does therefore acquit him, inasmuch as it appears to the Court, that although the prices paid for the horses, in the instances adduced, have been less than the prices charged to Government, yet the difference upon averaging the whole is very trifling, and has been expended for the benefit of the service; and it appearing by evidence that the Regiment is remarkably well mounted, and that Colonel Burgoyne might have been influenced in his conduct, as to the purchase of horses, by the opinion of the General Court Martial, on Colonel Charles Murray, of the Perthshire Regiment of Fencible Cavalry, (on a similar charge) and approved of by his Majesty, their purchase having been made prior to the publication of his Majesty's pleasure, on the trial of Colonel Sir George Thomas, late Colonel of the Suffex Fencible Cavalry.

And the Court finds that Colonel Burgoyne is not guilty of the second Charge alledged against him, and does therefore acquit him of the same.

And the Court on due consideration of the third Charge, finds that Colonel Burgoyne "*took from the Regiment two troop horses, for his private use and purposes, in the year 1798.*" It appears, however,

that he could have no criminal intention or self-interested motive in so doing, and that if culpable, it must be through ignorance of the custom of the service in like cases, and he having replaced those horses by others of a superior quality, and the Court conceiving the horses he took were kept on the strength of the Regiment through mistake, arising from Colonel Burgoyne's absence from the Regiment on the recruiting service in Essex, the Court does therefore acquit him of the latter part of the third Charge.

But the Court finding him guilty of taking the two troop horses from the Regiment, adjudge him to be reprimanded for said offence, at such time and place, and in such manner as his Excellency the Lord Lieutenant shall be pleased to order and direct.

And the Court is of opinion, that Colonel Burgoyne is not guilty of the fourth Charge alledged against him, and does therefore acquit him, considering at the same time, the said Charge as frivolous and vexatious.

And the Court is of opinion that Colonel Burgoyne is not guilty of the fifth Charge alledged against him, and does therefore acquit him, it appearing to the Court that General Sir Ralph Abercrombie's orders of the 13th February 1798, were never received by the Regiment.

And the Court is of opinion that Colonel Burgoyne is not guilty of the first Count in the sixth Charge, and does therefore acquit him of the same.

And the Court is of opinion that Colonel Burgoyne is not guilty of the *second* Count of the 6th Charge, and does therefore acquit him of the same, considering the said Charge in this Count as frivolous and vexatious.

And the Court is of opinion that Colonel Burgoyne is not guilty of the first part of the third Count of the sixth Charge, namely, "*Ordering officers*"

*“cers on duty out of their turn by roster, and without
“a route from Government, contrary to the rules of
“the service,”* and does therefore acquit him of the same.

With respect to the conclusive part of the Count the Court is of opinion that the men received and were charged with *overalls*, which articles are not allowed by his Majesty's regulations for the cavalry; but sees neither arbitrary nor un-officer-like conduct therein, (as implied in the general statement of said charge) the men having consented to pay for them on the recommendation of Major-General Needham, then commanding the camp where the Regiment was then stationed, the Court does therefore acquit him of this part of the third Count.

And the Court is of opinion that Colonel Burgoyne is not guilty of the fourth Count of the sixth Charge, and does therefore acquit him of the same.

And the Court is of opinion on the first Count in the 7th Charge, that Colonel Burgoyne withheld from Quarter-master Hawkins money due him; and the Court adjudges that Colonel Burgoyne shall immediately settle with, and pay the balance of said Quarter-master Hawkins's account, by the arbitration of Captain and Adjutant Webster, and Lieutenant and Pay-master Jarvis; and also that the said Colonel Burgoyne shall make such compensation for the keep and loss of the horse left by the said Quarter-master at Dundalk, as the above-mentioned arbitrators shall agree and determine on. But the Court acquits Colonel Burgoyne of the imputation of scandalous and infamous behaviour, unbecoming the character of an officer and a gentleman, as implied under the general statement of the said Charge, of which this accusation forms a part.

And the Court are of opinion that Colonel Burgoyne is not guilty of the second Count of the 7th Charge, and does therefore acquit him, considering the
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the said Count at the same time as frivolous and vexatious.

And the Court is of opinion that Colonel Burgoyne is not guilty of the first part of the third Count of the 7th Charge, and does therefore acquit him. That as to the second part of the aforesaid Count of the 7th Charge, the Court is of opinion that Colonel Burgoyne did make use of offensive and illiberal language of one, and to another officer of the Regiment, which the Court conceives is highly prejudicial to subordination, and does therefore adjudge him to be reprimanded for said offence, at such time and place, and in such manner as his Excellency the Lord Lieutenant shall be pleased to order and direct.

But the Court is of opinion that Colonel Burgoyne is not guilty of the latter part of the third Count of the seventh Charge, namely, *for making public declarations unbecoming his rank and situation, and injurious to his Majesty's service*, and does therefore acquit him of the same.

(Signed)

CHARLES EUSTACE.
Lieutenant-General.

(Signed) JOSEPH ATKINSON,
D. Judge Advocate General.

The Sentence is confirmed, and Lieutenant General Craig is directed to reprimand Colonel Burgoyne accordingly.

(Signed) CORNWALLIS.

A correct copy taken from the original, lodged in the Advocate General's office.

FRANCIS PATERSON.
Advocate General and Judge Martial.

A P P E N D I X.

[No. I.]

Government Orders against Irregularity.

(COPY.)

*Adjutant-General's Office, Dublin,
13th February, 1798.*

GENERAL ORDERS.

The Commander in Chief, is very sorry to find, that various practices have prevailed and taken root on this Establishment, highly detrimental to the Service.

Savings on forage.

Commutation of oats, for barley and bran.

Turning horses to grass contrary to orders, and charging the full food in the accounts—purchasing horses under value, and under age and size, although the full allowance was charged.

Commanding Officers of Regiments will be made responsible, that an immediate and effectual stop be put to such disgraceful proceedings, and that the standing orders be never evaded, but kept constantly in view, on the subject of continual regulations, referred to in the Standing Orders of the 8th of January 1789.

Men

Men borne on the Establishment of this kingdom, and employed improperly on duties not regularly belonging to them, under the different heads of

Music,		Servants,
Drummers,		and
Taylors,		Pioneers.

To prevent, as much as possible, the injuries the duty-soldiers sustain, from the number employed under the head already mentioned, it becomes necessary to detail precisely, to what extent the several indulgencies may be permitted.

Every Officer, who really may require it, may have a private from the ranks to be employed as a servant ; but this is not to prevent him mounting guard with his Master, or attending such parade as the Commanding Officer may direct ; who is not allowed to consent to his absence on field days, or any particular practice of firing or drills, when he shall not be sufficiently expert. Pioneers, unless when on the march, or employed in making cartridges, are to do duty in common with other soldiers,

Taylors are also to do duty ; as Colonels, or Commanding Officers of Regiments, during the war, are particularly directed to have their clothing finished in three different sizes by their Clothiers, previous to its being sent to the Regiment.—Taylors, therefore, can only be employed in mending.

The established numbers of drummers and fifers, are on no account to be exceeded, and such Regiments as have bands of music will be allowed to take one private per company for that purpose ; but it is expected that these men are fit to carry arms, and shall have been taught the use of them.

One non-commissioned officer may be allowed to have charge of the band of music ; all others, therefore, are to do their several duties of their ranks correctly, and upon no account to be employed upon any other, except drills.

The strictest attention of Commanding Officers, will be required to see, that equal proportion of duties be performed by all under their command ; which the irregularities before mentioned

tioned have prevented, and occasioned an injurious and disgusting share of fatigue on those who have done the duties of others.

(Signed)

G. HEWITT, A. G.
W. SANDYS, M. B.

Lieutenant-General Craig,
Commanding Eastern District,
Barracks, Dublin.

No. II.

Copy of Sentence on Colonel Burgoyne's Court-Martial, Edinburgh.

*Adjutant-General's Office,
Edinburgh, 18th December 1797.*

GENERAL ORDERS.

The whole of the proceedings of the General Court-Martial, on the trial of Colonel Montague Burgoyne, of the Loyal Essex Regiment of Fencible Cavalry, having been laid before the King, his Majesty has altogether approved of the opinion, and sentence of the Court-Martial, as applied to each article of Charge severally, as well as to the whole matter collectively; whereby Colonel Burgoyne is absolved from the imputation of any act unbecoming the character of a Gentleman, or of having in any instance harboured a dishonourable intention.

With respect to the two points in which the Court-Martial has declared Colonel Burgoyne's conduct to have been irregular, and open to censure, but has at the same time recommended him to his Majesty's clemency; his Majesty has been graciously pleased to dispense with his receiving any other reprimand, than that which the animadversion of the Court virtually conveys, and which his Majesty trusts will operate as a monition to him
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in the statement, and arrangement of all matters, that may concern the Regiment under his command, to observe invariably the direct and regular course, and to conform to the accustomed rules of the Service; by which means he will deprive any persons who may be unfavourably disposed towards him, of an opportunity of misrepresenting the motives of his conduct.

Upon the whole, his Majesty has been pleased to direct, that Colonel Burgoyne be released from his arrest, and restored to the functions of his commission. It is General Lord Adam Gordon's order, that the articles of charge, opinions, and sentences, together with his Majesty's pleasure signified thereupon, be circulated and read to all the Regular, Fencible, and Militia Forces in North-Britain.

(Signed) ALEX. MACKAY, D. Adj. Gen.

No. III

The following Paper and Letter were presented to the Court and permitted to lie on the Table.

The Prosecutors humbly request permission of the President and Gentlemen of the Court, to lay before them a letter they received from the Agents of the Regiment in London, in answer to one requesting leave to examine the regimental accounts; by the refusal of which the Court will see the Prosecutors were under the necessity of closing the 4th Charge, without being able to bring forward those proofs in support of it. But the Prosecutors having since discovered, by a letter in Colonel Burgoyne's own hand writing, that the full amount of off-reckonings had been drawn for in England: they humbly beg leave now to solicit the favour of the Court to refer again to that charge, as it is a matter of considerable importance, and hardship on the men of the Regiment, that they have never been supplied by Colonel Burgoyne with their proper quantity
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of gloves, horse collars, &c. to the great deficiency of two, three, and four pair of gloves per man, and to a greater amount of horse collars. The Prosecutors humbly beg leave to mention, that the investigation would not take up much time of the Court, if they would only have the goodness to order the Adjutant of the Regiment, to give into them a return of mens' names, with the number of pairs of gloves, and number of horse collars each man has had *given* him since the Regiment has been raised;—at the same time, the Prosecutors trust, that this will shew to this Honourable Court, that they did not frame the fourth Charge purposely for Colonel Burgoyne's recruit, as he has been pleased to insinuate, but that it was formed for the public good of the Regiment, and with a view to other transactions, independent of Edward Saltmarsh, which they conceived to be embezzlements.

October 23d, 1799.

(COPY.)

Argyle-street, London, 24th September 1799.

SIR,

We have just now been favoured with your letter of the 20th inst. expressing the desire of Major Crosse, Captain Bund, and yourself, to be informed if Colonel Burgoyne has charged Government with the full amount of the *clothing* and *gloves* for his Regiment ever since its first raising, and if he has also charged Government to the full amount of the *off-reckonings* allowed to a Regiment of Cavalry; and we beg leave to assure you, that we should not have a moment's hesitation in complying with your wish, if we could do it with propriety; but we are convinced you will think, upon considering the business, that we should not be justified in furnishing a copy of the accounts of any person who entrusted his concerns to our care, without his sanction for so doing.

We have the honour to be, Sir,

Your most obedient humble Servants,

(Signed) ROSS and OGILVIE.

Captain G. G. GRAHAM,
Essex Light Dragoons, No.
16, Ely-place, Dublin.

No. IV.

The following Letter was read in open Court, and permitted to lie on the table for the information of the Members, though not forwarded to Government.

Horſe-Guards, 23d February 1799.

SIR,

I have had the honour to receive and to lay before the Commander in Chief, your letter of the 18th inst. and his Royal Highness has directed me not to delay assuring you, that so far from any part of your conduct having given the least cause for displeasure, his Royal Highness is convinced, from the reports made to him, and from a consideration of late circumstances, that your exertions and your zeal have been as meritorious, as your situation must have been painful to your feelings, in a transaction and a negotiation of which the whole weight fell upon you—Colonel Burgoyne having left the Regiment at a period subsequent to the application which gave rise to them.

Had any dissatisfaction existed in his Royal Highness's mind, with respect to the circumstances you state, he directs me to say, the explanation you have been at the trouble of giving, would have fully removed it.

I have the honour to be,

Sir,

Your most obedient humble Servant,

(Signed) ROBERT BROWNRIGG.

Lient. Colonel SCUDAMORE,

Essex Fencible Dragoons.

No. V.

Loughinstown, 21st April 1799.

SIR,

I am directed by Major-General Needham to observe, that a bill was laid before him by Quarter-master Hawkins, for a variety of charges, mostly on account of baggage paid by Quarter-master Hawkins as Troop Clerk, and when having the charge of regimental stores, camp equipage, &c. by which it appears there is a large sum due to him from Colonel Burgoyne.

It was Major-General Needham's intention to have ordered a Court-Martial to be held, to enquire into those accounts, on Colonel Burgoyne's return, which Major-General Needham waited for, that Colonel Burgoyne might have an opportunity to make his objections. But as the Colonel's absence of four months has prevented that enquiry, Major-General Needham is under the necessity of ordering, that the Pay-master of the Regiment do pay Quarter-master Hawkins twelve guineas, on account of that debt, to enable him to clear his quarters and march with the Regiment.

I have the honour to be,

Sir,

Your most obedient humble Servant,

(Signed)

WILLIAM NEEDHAM,

Major of Brigade.

Lieut. Colonel SCUDAMORE,
or Officer Commanding
Loyal Essex Dragoons.

No. VI.

No. VI.

Letter to Colonel Burgoyne, informing him of intention of bringing him to General Court-Martial.

Drogheda, July 28th, 1799.

SIR,

Having lately discovered many things, in which, we think, your conduct very reprehensible, we feel it a duty we owe to the Regiment, and for the good of the Service, to exhibit Charges against you, which we shall in due time send to you. At the same time, we feel it our duty to give you the earliest intimation, that our intentions are to send the same, as soon as possible, to his Excellency the Lord Lieutenant.

We have the honour to be,

Sir, with due respect,

Your obedient humble Servants,

(Signed) J. GODSALVE CROSSE, Major.
THOS. HEN. BUND, Capt. E. L. D.
G. E. GRAHAM, Capt. E. L. D.

To Colonel MONTAGUE BURGOYNE,
Essex Light Dragoons.

No. VII.

Haydon's Affidavits, &c. &c. and Judge Advocate General's opinion.

*Court-Martial Rooms, Barracks,
5th November 1799.*

SIR,

I am directed by the General Court Martial, now assembled for the trial of Colonel Burgoyne, of the Essex Fencible Light Dragoons, to state to you, that as the attendance of Edward Haydon, Horse-dealer, from Essex, could not be ob-

tained to give *viva voce* evidence before the Court, whether the enclosed affidavits, accounts, and receipts, should be received as legal and admissible evidence, adduced on the part of Colonel Burgoyne, being the best evidence, he says, that is in his power to produce on the charge to which they relate.—You will be pleased to give me your answer and opinion, by 10 o'clock to-morrow morning, for the information of the Court.

I have the honour to remain,

Sir, with great respect,

Your most obedient humble Servant,

(Signed) JOSEPH ATKINSON,
Deputy Judge Advocate General.

FRANCIS PATERSON, Esq.
Judge Advocate General, &c. &c.

(COPY.)

I Edward Haydon, do swear, that I have sold to Colonel Burgoyne, at several times, many horses for the use of his Regiment, at various prices, viz. from thirty guineas, to twenty-one pounds, for each horse.

I swear, that he has often commissioned me to give twenty-nine or thirty guineas, for horses worth the money.

I also swear, that he has never objected to the price of any horses which he liked, but has been uncommonly nice, and difficult in purchasing the horses; and that I have sold to other Regiments the horses which he has refused, to the numbers, I believe of fifty, at 23*l.* and 24*l.* per horse.

I also swear, that the Colonel has been a loser of twenty pounds two shillings for two horses, which I exchanged by his desire.

I also swear, that Colonel Burgoyne has told me, that he has taken horses of me, before he was allowed to charge them to Government, and that he has kept them at his own expence.

(Signed) EDWARD HAYDON.

Sworn before me 17th Aug. 1799.

WM. PALMER.

Ejex.

Essex. } Edward Haydon, of Hazle-end, in the county of
 — } Essex, Horse-dealer, maketh oath and faith, that
 he hath been desired by Montague Burgoyne, Esq. Colonel of
 the Fencible Regiment of Essex Light Dragoons, to attend as
 an evidence, at his Court-martial, in Ireland, but being con-
 cerned in providing horses for Government, and employed on
 his own private business, he cannot quit this kingdom, with-
 out great injury to himself and family. And the said Edward
 Haydon further faith, that he has already sworn to his trans-
 actions with Colonel Burgoyne, in an affidavit made before
 Wm. Palmer, Esq. one of his Majesty's Justices of the Peace
 in and for the said county.

EDWARD HAYDON.

Sworn before me this 19th

Day of September 1799.

(Signed) ROBERT RAYNSFORD.

[A correct Copy, taken from the originals, in the Advocate
 General's Office.]

JAMES HERON, Clerk.

SIR,

Having received your letter, written by direction of the
 General Court-Martial. I have read the affidavits, &c. &c.
 enclosed, and beg leave to state that, in my opinion, the
 affidavits and other papers are inadmissible evidence, and ought
 not to be received by the Court.

I am your humble Servant,

(Signed) FRANCIS PATERSON.

JOSEPH ATKINSON, Esq.

&c. &c. &c.

No. VIII.

No. VIII.

Sir Montague Burgoyne's Letter to Colonel
Burgoyne.

MY DEAR UNCLE,

I am very happy I have found the receipt which Hayden's man gave me for two hundred guineas. The receipt specifies that the money was *on account* for horses, and I assure you I never had any conversation with him about the price he was to have for them.

I declined for some time giving him any money, as I then expected you in England; but he was so pressing, and even sent his man on purpose to say, he could not attend some fairs (where he wished to go) unless I let him have some cash, that I thought it fair to give him the 200 guineas on account.

In regard to the horses, I perfectly recollect seeing Lord Heathfield, after he had inspected them, and that he expressed himself very much pleased both with them and their condition.

I am extremely sorry so many things have happened to prevent me going to you, but you have already had my reasons.

Lady Burgoyne and myself have had very bad sore throats and colds, but we are now quite recovered. We sincerely wish you success, and believe me,

My dear Uncle,

Yours faithfully,

(Signed) M. BURGOYNE.

Sutton-Park,
October 20, 1799.

Received, Nov. 16, 1798, of Sir Montague Burgoyne, the sum of two hundred and ten pounds, on Colonel Burgoyne's account for horses, for Mr. Haydon, per me,

M. FITCHMARSH.

£. 210

No. IX.

Messrs. Ross and Ogilvie's Letter to Colonel Burgoyne, and M. Lewis's to Ross and Ogilvie.

London, 26th October 1799.

SIR,

We have the pleasure to send you on the other side, M. Lewis's answer to your question respecting purchasing horses, which we hope will be satisfactory to you; at same time, we trust, the attested copies of the letters to Colonel Brownrigg has been sent you from the Office of the Commander in Chief.

We have the honour to be,

Sir,

Your most obedient humble Servants,

(Signed) ROSS and OGILVIE.

Colonel M. BURGoyNE,
Messrs. Armit and Borough,
Dublin.

War-Office 25th October 1799.

GENTLEMEN,

In reply to your letter of the 22d inst. I am directed to acquaint you, for the information of Colonel Burgoyne, it is not possible to give a decisive answer to the enquiry made by you. No instance, however, is recollected of a charge being made for the purchase of a troop horse, at a less rate than twenty-five guineas, since the commencement of the present regulation.

I am, Gentlemen, &c.

(Signed)

M. LEWIS.

Messrs. Ross and OGILVIE.

No. X.

No. X.

(COPY.)

Under-feeding of Prosecutors statement for recruited horses, from 14th August to 24th Nov. 1798, 34*l.* 1*s.* 8*d.*
 British.—This statement the Prosecutors have drawn out agreeable to their ideas of the evidences produced by them before the Court in the Prosecution, but which is of course for this Hon. Court to determine, being a balance in Colonel Burgoyne's hands-of under-feeding 34*l.* 1*s.* 8*d.*

Account of oats to troop horses, per Prosecutors statement, agreeable to the evidences produced on the part of the Prosecution. Account charged to Government for troop horses.

To 40 horses—14th August to 24th October 2880 days at half a peck per day—	£. 34	8	0		
360 bushels at 3 <i>s.</i> per					
To 19 do. 14th Aug. to do. 1368 days, at 3-4ths per day—256 bushels 2 pecks				£. 238	15
at 3 <i>s.</i> per	38	9	6		
To 24 do. broken periods, 706 days, at 3-4ths—132 bushels, 1 peck, 2 quar-					
terns, at 3 <i>s.</i>	19	6	11		
To Cornet Daniel, for oats, 355 bushels, at 3 <i>s.</i> 6 <i>d.</i>	62	2	6		
To do. for 2 sick horses, at Liverpool	1	1	9		
To be paid to Fisher for do.	21	15	0		
To be paid to Jarvis, for do. Loughlinstown	7	18	1		
Total under-feeding the above period	34	1	8		
				£. 238	15
				5	

XIII

(Signed)

J. GODSALVE CROSSE, Major.
 J. H. RUND, Captain.
 G. E. GRAHAM, Captain.

No. XI.

Colonel Napier's Letter to Colonel Burgoyne.

Army Account Office, November 4th, 1799.

SIR,

In obedience to his Excellency the Lord Lieutenant's commands, I have examined such books of the late Auditor of Imprest Accounts as are in my possession, to discover if any sum less than 25 guineas has been paid for troop horses, since the regulation of February 1793, and I find only two instances of a deviation from that arrangement:—The first occurs in the accounts of the 2d Fencible Light Dragoons, commencing the 4th of August 1794, and terminating the 31st March 1795, in which levy-money for 120 horses is charged at 308*l.* 12*s.* 6*d.* or 25*l.* 13*s.* 9¼*d.* per horse. The second appears in addenda to the accounts of the late 30th Light Dragoons, where levy-money, &c. for 111 horses is stated at 347*l.* 7*s.* 5*d.* or 31*l.* 11*s.* 7*d.* per horse, as the word &c. occurs in the statement, and I am not in possession of the original accounts, I cannot assert that no charge besides levy-money was implied. I have only just received your application to the War-Office for information on this head, owing to Sunday intervening, or I should not have delayed communicating all I know relative to the subject.

I have the honour to be,

Your obedient Servant,

(Signed) GEORGE NAPIER,
Comptroller Army Accounts.

Colonel BURGOWNE, &c. &c.

No. XII.

Sir Ralph Abercromby's Letter to Col. Burgoyne.

Edinburgh, 30th July 1798.

SIR,

I have been honoured with your letter of the 23d, stating the measures you were taking to complete your augmentation, and requesting further leave of absence. To this application I cannot give my approbation, as at this season, and your Regiment in Camp, your presence with the Regiment is necessary.

I have the honour to be, Sir,

Your most obedient humble Servant,

(Signed) RA. ABERCROMBY, G.

Colonel MONTAGUE BURGOYNE,

Loyal Essex Fencible Cavalry.

No. XIII.

Copy of a Letter from Colonel Brownrigg, Aug.
2d 1798, concerning Augmentation.

(COPY.)

Horse-Guards, 2d August, 1798.

SIR,

I have had the honour to lay before his Royal Highness the Commander in Chief, your letter of the 28th ult. and am directed to acquaint you, that his Royal Highness is pleased to consent to your being absent from your Regiment, until you have completed the augmentation.

I have the honour to be, Sir,

Your most obedient humble Servant,

ROBERT BROWNRIGG.

Colonel BURGOYNE,

Essex Fencible Cavalry,

Mark-Hall.

No. XIV.

No. XIV.

Regimental Orders.

Loughlinstown Camp, December 18, 1798.

R. O.

From the great trouble that has been occasioned by the Clerk's of troops leaving debts in the quarters that the Regiment has quitted. Officers will see the necessity of taking care that every thing is paid before a change of quarters. The Pay-master is ordered never to pay any subsistence, 'till the vouchers and certificates ordered are produced, on the 24th of every month. To settle the debts at Newry, the Pay-master will go there the 1st of next month; Officers of troops are ordered to enable him to pay every thing that is owing; for should there be any future complaint, the Commanding Officer will be under the necessity of laying the business before the Commander in Chief.

No. XV.

Several Orders of 9th and 10th November last—
1st, 4th, and 18th December last—23d and
25th July last.

Dundalk, November 9, 1798.

R. O.

The Commanding Officer is much surprised to find, that several of the Quarter-masters expend the money given them for subsistence, for their own private purposes, and are in a habit of leaving many debts.—Officers Commanding Troops, are reminded, that they are the responsible persons, and expected to see every just debt satisfied before a change of quarters, and to prevent a practice that brings so much disgrace on the Regiment,

Dundalk,

Dundalk, 10th November.

Officers Commanding Troops are desired to examine the expenditure of the money paid them for the subsistence ; as it is very much feared, that it has not all been properly disposed of by the Clerks. It must be recollected that the Officers, and not the Clerks, are responsible to Government and the Commanding Officer.

Loughlinstown Camp, 1st December, 1798.

Officers are again reminded of the Orders of the 10th of last month.

Loughlinstown Camp, 4th December, 1798.

The Adjutant is directed to inform the other Officers, that their Certificates are not regular, the words of the Certificate must be according to the Copy given.

Any remarks may be added to it ; it must also mention the sums due, and that they have been paid to the Pay-master.—The Certificates must be delivered to the Commanding Officer on parade to-morrow morning.

Loughlinstown Camp, 8th December, 1798.

The Pay-master is ordered never to pay any subsistence, 'till the vouchers and certificates ordered are produced on the 24th of every month, to settle the debts at Newry. The Pay-master will go there the 1st of next month.—Officers of Troops are ordered to enable him to pay for every thing that is owing ; for should there be any future complaints, the Commanding Officer will be under the necessity of laying the business before the Commander in Chief,

Drogheda, 23d July 1799

Colonel Burgoyne having lately had an opportunity to see the ill-effect arising to a Commanding Officer, as well as to the public

public service, from want of a correctness in all vouchers, according to the orders of the Commander in Chief; and having some reason to fear, that there has been some deviation from them in the Regiment under his command, strictly enjoins Officers of Troops to carefully examine all vouchers, before they are delivered to the Pay-master, as they will be responsible for the correctness of them. The order of the 21st instant repeated, viz. that the abstracts and vouchers should be given in this day to the Pay-master, who is reminded of a former order, not to pay any subsistence for the following month, 'till the abstracts are given in, and also a certificate that every thing is paid. The Commanding Officer feels it so much for the discredit of the Regiment, that any thing should remain unpaid; that he strictly orders and charges the Pay-master not to issue any cash for the month following, 'till the Officers Commanding Troops have delivered the following certificates.

I do certify, that all subsistence for the men and horses, all forage charged, as well as all provisions procured for the troops under my command, has been paid to the 24th inst.

If Colonel Burgoyne is not sooner relieved from the Court-Martial, the Pay-master will on Thursday next bring to him at Dublin, all the accounts and vouchers, to be carefully examined.

Colonel Burgoyne is much surprised, that the men and horses have not been subsisted at Mount-Kennedy to the 24th inst. according to his positive orders given. Officers of Troops will immediately send sufficient for their subsistence to the 24th inst.

(True Copies.)

(Signed) J. WEBSTER, Adj. E. L. D.

Dublin, 25th July, 1799.

R. O.

Colonel Burgoyne is surprised that some Officers Commanding Troops, have not yet delivered their abstracts made out in the proper form, together with all vouchers and the certificates required. He expects that all the abstracts should be signed
by

by the Officers Commanding Troops, stating they have carefully examined the vouchers, and find that they agree with what is charged, as to quantity and price.

The Paymaster is strictly enjoined, not to issue any subsistence whatever 'till this is done, and abstracts approved of by the Commanding Officer.

(A true Copy.)

(Signed) J. WEBSTER, Adj. E. L. D.

No. XVI.

The following Statement and Letters were read in open Court, and permitted to lie on the table for the information of the Members, tho' not forwarded to Government.

Dublin Barracks, 12th May, 1800.

(COPY.)

Captain Graham having been solemnly examined before this Court, humbly begs leave to make a statement in reply to an insinuation thrown on his character in Colonel Burgoyne's defence, for having disgraced himself as an Officer, by shaking hands with Lance Corporal Tippins, and at the same time of ungenerously and unhandfomely suspecting that Captain Graham shook hands with him with a view to incur his good will, and thereby to obtain an evidence from him against the Colonel on this trial. Though Captain Graham feels himself conscious of having fully cleared this ungenerous suspicion, before the Members of this Hon. Court, yet as the insinuation still stands on the statement of Colonel Burgoyne's Defence, he feels it necessary to make a reply in writing to that statement, in vindication of his own honour, that thereby he may have the opportunity of equally clearing himself in the eyes of his Excellency

Excellency the Lord Lieutenant ; and he now humbly begs leave to state upon oath, the simple fact, was as follows :

“ Lance Corp. Tippins rejoined the Regiment at Drogheda the beginning of June last, after having been absent near a twelve month on the recruiting service, and being left sick in England when the recruiting party joined at Drogheda, he was suspected of having feigned sickness for an opportunity to desert ; however, on the contrary, the man, as soon as he was recovered, joined Captain Graham's troop ; (to which he originally belonged) after the general parade was dismissed, the man came up to Captain Graham, (in presence of Colonel Burgoyne) and said, “ Captain, I hope I see your honour well ; I am happy to see you, and rejoiced to return to my troop ;” to which Captain Graham replied, shaking him by the hand as a well greeting, “ my lad, I am indeed glad to see you back again, for I rather looked upon you as a lost sheep, there having been a report that you had deserted, but which I could not believe, as I know you to be too good a foldier for that.” Captain Graham had indeed good reasons for saying this, he having known the man then for two years and a half, and never having had occasion to find fault with him during that period, as he was always sober, cleanly, and an industrious good foldier. Captain Graham having that good opinion of the man, hopes there was no great criminality in well-greeting him back to his troop, by a shake of the hand. But Captain Graham here most solemnly declares, that at that moment, he had not the most distant idea of bringing Colonel Burgoyne to a general Court-Martial ; nor had he any thought of it 'till full six weeks afterwards ; nor did he send for this said Lance Corporal Tippins to interrogate him relative to the feeding in Essex, 'till after Colonel Burgoyne was gone to England in the month of August, and then finding that his deposition was only a corroboration of what he had two other witnesses to prove, dispensed with summoning him on the part of the Prosecution, having received a letter from the Adjutant-General, to say, that two witnesses to one point would be sufficient, and begged that Captain Graham would abide by that

that order as near as possible, and not bring more men to Dublin than he thought there was real occasion for."

(COPY.)

Adjutant-General's Office, October 12, 1799.

SIR,

The list of evidences names in support of the Prosecution of Colonel Burgoyne, of the Essex Dragoons, which you gave into the Judge Advocate General, being very numerous, and their attendance in Dublin on the trial extremely prejudicial to the service, I have to desire that you will inform me, if the whole are absolutely necessary for the purpose; two or three evidences to the same point being always considered as fully sufficient.—You will be pleased to return me an answer to this letter as soon as possible, as well as the list of evidences which you consider sufficient to support the Prosecution of Colonel Burgoyne.

I am, Sir, your obedient Servant,
(Signed) G. NUGENT, Adj. General.

Captain G. E. GRAHAM,
Essex Fencible Dragoons,

P. S. As to the persons who you wish to be summoned to attend from England, it cannot be done, neither the Judge Advocate, nor the Court-Martial, having the power to enforce their attendance,

Captain Graham's answer to the above.

Ballitore, October 12, 1799, ½ past 8, P. M.

SIR,

I have just had the honour of your letter, and I beg to answer in the names of Major Crosse, Captain Bund, and myself, that we shall be extremely happy to comply with your orders, as far as lay in our power in the present instance; and
enclosed

enclosed I beg to transmit you a list of the evidences that will absolutely be required for the trial of Colonel Burgoyne, having strictly observed your ideas of two witnesses to one point being sufficient.

I have the honour to be with the greatest respect, Sir,
Your obedient humble Servant,

(Signed) G. E. GRAHAM, Capt. E. L. D.

General NUGENT, &c. &c. &c.

No. XVII.

Adjutant-General's Office, Dublin, 12th March, 1800.

GENERAL ORDERS.

His Excellency the Lord Lieutenant having been pleased to approve of, and confirm, the proceedings and sentences of the General Court-Martial, assembled for the trial of Lieutenant Clarke, and Cornets Daniel and Gregson, of the Essex Regiment of Fencible Cavalry; I have received his Excellency's command to promulgate the same in General Orders to the Army on this Establishment.

(Signed) GEORGE NUGENT, Adj. G.

Brigade Major MACKAY, &c. &c. &c.

Enniskillen.

(Signed) ALEX. MACKAY, Maj. of Brigade.

Officer Commanding Essex
Fencible Cavalry, Belturbet.

COPY

(COPY.)

By the Lord Lieutenant General and General Governor of
Ireland.

CORNWALLIS,

Whereas, at a General Court-Martial, held in the Barracks of Dublin, the 6th day of February, 1800, and continued by adjournment to the 28th day of the same month, whereof Major-General Morrison is President; the Court being duly sworn, proceeded to the trial of

Lieutenant Clarke, of the Essex Light Dragoons, on the following charges :

For scandalous and infamous behaviour, unbecoming the character of an Officer and a Gentleman.

1st, " In charging a higher price for the repair of boots,
" and saddle of the Regiment, than he actually paid."

2d, " In delivering false and fictitious vouchers for such re-
" pairs.

3d, " In charging a higher price for the purchase of forage,
" than he actually paid.

4th, " In delivering false and fictitious vouchers for the pur-
" chase of forage."

The Court having duly weighed the evidence adduced on the trial of Lieutenant Clarke, are of opinion, that he is not guilty of scandalous and infamous behaviour, as expressed at the head of the Charges, it appearing that he was not actuated by any fraudulent intention, but that he is guilty of disorderly and neglectful conduct in foraging the troop, of which he had the care. They accordingly acquit him of the first and third Charges preferred against him, but find him guilty of the second and fourth, in breach of the second article of the twenty-fourth section of the articles of war; and do therefore adjudge that he shall be suspended from rank and pay during his Majesty's pleasure.

The

The same Court proceeded to the trial of Cornet Daniel, on the *two last* Charges of Lieutenant Clarke, and passed the same sentence.

The same Court proceeded to the trial of Cornet Gregfon, on the *exact four* Charges of Lieut. Clarke, and passed the same sentence.

We having taken the proceedings and sentence of the said General Court-Martial into our consideration, are pleased hereby to approve of, and confirm the same; and the said Lieutenant Clarke, and Cornets Daniel and Gregfon, are accordingly suspended from rank and pay for the space of three months, from the day of the date hereof; and we do direct and require, that you will cause the same to be notified to his Majesty's forces in the District under your command; for doing whereof this shall be your warrant.

Given at his Majesty's Castle of Dublin,
this 3d day of March, 1800.

By his Excellency's command.

(Signed) CASTLEREAGH.

Lieut. Gen. PETER CRAIG, &c. &c. &c.

No. XVIII.

The following is an authentic Copy of the Arbitration, as ordered by the Court, upon the first instance of the 7th Charge.

Arbitration of Captain-Lieutenant and Adjutant Thomas Webster, and Lieutenant and Pay-master John Jarvis, of the Essex Regiment of Fencible Cavalry, on sundry accounts, between Colonel Burgoyne and Quarter-master Hawkins, agreeable to the orders of a General Court-Martial, held on Colonel Burgoyne in Dublin, 14th October, 1799.

Arbitrators

Arbitrators having examined the said accounts, do make the following observations and decisions :

Accounts No. 1, 2, 3, 4, 5, and 6 have been examined, and are found correct.

No. 7.—In Colonel Burgoyne's credit, the balance brought from No. 6 is inserted 38*l.* 17*s.* 11*d.* when it should be only 33*l.* 17*s.* 11½*d.* but is added up together as being the latter sum, so that there is no over-credit in the total.

No. 8.—In Colonel Burgoyne's credit, the balance brought from No. 7, 69*l.* 2*s.* 6*d.* when it should be 45*l.* 5*s.* 6*d.* making the balance due to Colonel Burgoyne 3*l.* 4*s.* 2½*d.* instead of 27*l.* 1*s.* 2½*d.*

No. 9.—In Colonel Burgoyne's credit, the balance brought from No. 8, is inserted 35*l.* 5*s.* 1½*d.* whereas it is stated in No. 8, to be only 27*l.* 1*s.* 2½*d.* making the difference of 8*l.* 3*s.* 11*d.* of over-credit to Colonel Burgoyne, in the accounts as they then stood ; but as the real balance due to Colonel Burgoyne from No. 8, being only 3*l.* 4*s.* 2½*d.* there remained a sum due to Quarter-master Hawkins, in No. 9, of 4*l.* 11*s.* 1*d.* ; instead of 28*l.* 2*s.* 6½*d.* being due to Col. Burgoyne, as therein stated.

No. 11.—Article 1st, Carriage of regimental baggage and storage, &c. amounting to 33*l.* 1*s.* 6*d.*—Arbitrators are of opinion, that this expence, in the first place, should fall on Colonel Burgoyne, who is at liberty to represent the same to Government, or to make it a charge against the off-reckonings of the Regiment.

No. 11.—Article 7th, Extra expence of troop horses at Carrickfergus, amounting to 11*l.* 8*s.* 10½*d.*—Arbitrators are also of opinion, that this sum should be paid by Colonel Burgoyne ; but presume it would be allowed by Government, were it represented as an expence necessarily incurred.

No. 11.—Article 10th, Forage of a supernumerary horse, amounting to 3*l.* 16*s.* 0*d.*—Arbitrators are of opinion, that this expence cannot in any way concern Colonel Burgoyne, being

being for the forage of a supernumerary horse lent to Cornet Banks, who has been allowed to charge the same to Government, and consequently is the proper person to apply to for payment.

No. 12.—Amount of forage charged for Quarter-master Hawkins's horse by Mary M'Loughlin, from 19th November 1798, to 20th December 1799, being 36*l.* 17*s.* 0½*d.* Irish, from which is deducted 7*l.* 15*s.* 11½*d.* leaving a balance of 29*l.* 6*s.* 1*d.* Irish, or 26*l.* 16*s.* 3½*d.* British.

Amount of stoppages paid Pay-master, between 19th Nov. 1798 and 24th May 1799, being 6*l.* 12*s.* 5½*d.* for the period the said horse was charged to Government.

Arbitrators are of opinion, that these two latter sums should be paid by Colonel Burgoyne, they having allowed him the amount charged to Government, being 15*l.* 18*s.* 0*d.*

Arbitrators are of opinion, that Colonel Burgoyne should pay Quarter-master Hawkins the just value of his horse, at the time he was detained by the said Mary M'Loughlin, at Dundalk, as appears from the accounts, that there was a balance due Quarter-master Hawkins at the time of settlement, in Dundalk, of 79*l.* 17*s.* 4½*d.* instead of a debt to Colonel Burgoyne of 28*l.* 2*s.* 6½*d.* as is stated in account No. 9.

Arbitrators are of opinion, that Colonel Burgoyne is entitled to the amount of sale of the horse above-mentioned, which they are informed amounted to 2*l.* 12*s.* 6*d.*

Arbitrators having annexed an abstract of the accounts, wherein there appears a balance due from Colonel Burgoyne to Quarter-master Hawkins of 78*l.* 8*s.* 10½*d.* which sum Arbitrators are of opinion he is justly entitled unto.

(Signed) THOS. WEBSTER, Capt. and Adj.
J. JARVIS, Lieut. and Pay-master.

To his Excellency Marquis Cornwallis, Lord
Lieutenant General and General Governor of
Ireland.

The Memorial of Major John Godsalve Crosse, and Captains
Thomas Henry Bund, and George Edward Graham, of his
Majesty's Loyal Essex Light Dragoons,

HUMBLY SHEWETH,

That your Memorialists sometime since preferred Charges
against Colonel Montague Burgoyne, of the Loyal Essex Light
Dragoons, and prayed for a Court-martial to be held upon
him.

That your Memorialists were not aware at the time, that,
by the Articles of War, it is required that charges of ungentleman-like and unofficer-like conduct should contain an enumeration of the specific facts, upon which such charges are founded, and therefore framed their accusation in general terms.

That your Memorialists have, in the charges herewith laid before your Excellency, conformed to the Articles of War in that particular, and have also, to the charge of arbitrary and unofficer-like conduct, annexed the instances in which they conceive Colonel Burgoyne to have misconducted himself, in order that Colonel Burgoyne may be perfectly apprised of the nature of the accusation.

That your Memorialists humbly request your Excellency's permission to withdraw their original charges, and substitute those now laid before your Excellency, being framed with a precision, as they humbly conceive, at once more conformable to the Articles of War, more advantageous to the accused, and more conducive to the ends of justice.

Which is submitted,

JOHN GODSALVE CROSSE, Major.

THOMAS H. BUND, Captain.

G. E. GRAHAM, Captain

FINIS.

ABSTRACT of Accounts between Colonel Burgoyne and Quarter-master Hawkins, from 25th March 1796, to January 1800.

	l.	s.	d.
To amount of Account, No. 1 as per Voucher,	55	3	4
To do. of do. No. 3 do.	145	11	6½
To do. of do. No. 4 do.	131	3	9
To do. of do. No. 5 and 6 do.	89	13	11½
To do. of do. No. 7 do.	69	2	6
To do. of do. No. 8 do.	75	4	8½
To do. of do. No. 9 do.	25	8	1½
To do. of do. No. 10 do.	42	13	3½
To do. of do. No. 11 do.	41	6	11½
To do. of forage for Quarter-master Hawkins's horse, from 19th Nov. 1798 to 20th Dec. 1799, as per Voucher No. 12.	26	16	3½
To do. of Stoppages paid Pay-master for do. from 19th Nov. 1798 to 24th May 1799—187 days at 8½d.	6	12	5½
To Quarter-master Hawkins's horse detained by Mary M'Loughlin, at Dundalk, for debt, and never recovered by } Hawkins, valued by Quarter-master Payne at 25 guineas,	26	5	0
Errors excepted,	£. 735	1	10½

(Signed)

THOMAS WEBSTER, Captain and Adjutant.
J. JARVIS, Lieutenant and Pay-master.

	l.	s.	d.
By amount of Account, No. 2 as per Voucher,	128	9	5
By do. of do. No. 3 do.	77	11	8
By do. of do. No. 4 do.	162	2	10
By do. of do. No. 6 do.	87	6	6½
By do. of do. No. 7 do.	80	10	0½
By do. of do. No. 8 do.	33	3	5
By do. of do. No. 9 do.	17	12	10
By do. of do. No. 10 do.	14	10	9
Forage charged to Government for Quarter-master Hawkins's horse.			
By 1 Horse 19th Nov. and 24th Nov. 6 days. Hay 0 3 0 at 4 0 Straw 0 1 8 at 2 0 Oats 0 2 16 at 7 8	0	8	6
By 1 do. 25th Nov. and 24th Dec. 30 do. do. 3 3 0 at 4 0 do. 1 2 12 at 2 6 do. 3 0 24 at 8 4	2	5	10
By 1 do. 25th Dec. and 24th Jan. 31 do. do. 3 3 14 at 4 0 do. 1 2 18 at 2 3 do. 3 1 8 at 8 9	2	8	3
By 1 do. 25th Jan. and 23rd Feb. 30 do. do. 3 3 0 at 4 5 do. 1 2 12 at 2 6 do. 3 0 24 at 8 9	2	8	5
By 1 do. 24th Feb. and 24th Mar. 28 do. do. 3 2 14 at 4 6 do. 1 2 6 at 2 6 do. 3 0 12 at 8 9	2	8	3
By 1 do. 25th Mar. and 21st April 28 do. do. 3 2 0 at 5 6 do. 1 2 0 at 3 3 do. 3 0 0 at 9 0	2	11	1½
By 1 do. 22d April and 24th April 3 do. do. 0 1 14 at 6 6 do. 0 0 18 at 4 9 do. 0 1 8 at 9 6	0	6	2
By 1 do. 25th April and 24th May 30 do. do. 3 3 0 at 7 0 do. 1 2 12 at 4 6 do. 3 0 24 at 8 8	3	1	5½
By amount of Sale of Quarter-master Hawkins's Horse, at Dundalk,	2	12	6
By do. of an order to Quarter-master Payne,	15	15	0
By do. of Cash of Colonel Burgoyne, at Naas,	21	0	0
Balance due Quarter-master Hawkins,	78	8	10½
Errors excepted,	£. 735	1	10½

(Signed)

THOMAS WEBSTER, Captain and Adjutant.
J. JARVIS, Lieutenant and Pay-master.